

No. 12869

United States
Court of Appeals
for the Ninth Circuit.

RAYMOND WRIGHT,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Appeal from the District Court for the
Territory of Alaska,
Fourth Division

FILED

MAY 23 1951

PAUL H. O'BRIEN,

CLERK

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INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

	PAGE
Appellant's Statement of Points and Designation of Record.....	264
Attorneys of Record.....	1
Certificate of Clerk.....	262
Indictment	3
Judgment and Commitment.....	7
Motion for Change of Venue.....	9
Affidavit of Benton, Quincy.....	11
Affidavit of Hoopes, Robert.....	10
Motion to Dismiss.....	4
Notice of Appeal.....	14
Order Extending Time to File, Record and Docket Transcript	16
Order, Plea and Setting Time for Trial.....	5
Order for Release.....	15
Ordered That Motion for Change of Venue Be Denied	12
Plea and Setting Time for Trial.....	5

	INDEX	PAGE
Praecipe for Transcript of Record.....		17
Proceedings		19
Verdict		6
Witnesses, Defendants':		
Fields, Elgie W.		
—direct		220
—cross		225
—redirect		228
Walters, Willa May		
—direct		230
—cross		233
Wright, Vernestine		
—direct		211
—cross		218
—redirect		241
Witnesses, Government's:		
Barber, Alfred		
—direct		57
—cross		68
—redirect		75
Bremer, Arthur S.		
—direct		76
—cross		81

INDEX

PAGE

Witnesses, Government's—(Continued) :

Donaby, Vanada

—direct	130
—cross	136
—redirect	142
—recross	147

Greer, Power G.

—direct	27
—cross	46
—redirect	56

Jones, William

—direct	155
—cross	169

Ringstrom, Hugo

—direct	111
—cross	117
—redirect	118

Tweedy, George M.

—direct	119
—cross	125

Urie, Martin

—direct	85
—cross	92

Wood, Nathaniel

—direct	182
—cross	191

ATTORNEYS OF RECORD

EVERETT W. HEPP,

Fairbanks, Alaska,

Attorney for Plaintiff and Appellee.

QUINCY W. BENTON,

JULIEN A. HURLEY,

Fairbanks, Alaska,

Attorneys for Defendants and Appellants.

In the District Court for the District of Alaska,
Fourth Judicial Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAYMOND WRIGHT and VERNESTINE
WRIGHT,

Defendants.

No. 1509 Cr.

INDICTMENT

The Grand Jury charges:

On the 4th day of August, 1950, in the Fourth Judicial Division, Territory of Alaska, Raymond Wright and Vernestine Wright feloniously possessed and had under their control a narcotic drug, to wit, *Cannabis sativa indica*, commonly referred to by the name of "Marihuana," in violation of

Section 40-3-2 of the Alaska Compiled Laws Annotated, 1949.

Dated at Fairbanks, Alaska, this 17th day of October, 1950.

A True Bill

/s/ RAY KOHLER,

Foreman of the Grand Jury.

/s/ EVERETT W. HEPP,

United States Attorney.

Witnesses before the Grand Jury:

Power G. Greer,

Alfred Barber,

Vanada Donaby,

Nathaniel Wood,

William Jones.

[Endorsed]: Filed October 17, 1950.

[Title of District Court and Cause.]

MOTION TO DISMISS

Come now the above-named defendants by their attorney, Quincy Benton, and respectfully move this Court for an order herein dismissing the Indictment for the reason that the same does not state facts sufficient to constitute a crime.

/s/ QUINCY BENTON,

Attorney for Defendants.

Service of copy acknowledged.

[Endorsed]: Filed October 25, 1950.

[Title of District Court and Cause.]

ORDER, PLEA AND SETTING TIME FOR
TRIAL

The Government was represented by Everett W. Hepp, U. S. Attorney; the defendants were present in person and represented by Quincy Benton.

Respective counsel had argument on the defendants' Motion to dismiss the Indictment. It was Ordered that the motion be denied.

This being the time set for the defendants to plead to the Indictment, upon being asked if they were Guilty or Not Guilty of the crime charged in the Indictment, to wit: Illegal Possession of Narcotic Drugs, both defendants pled Not Guilty, which plea was Ordered accepted, and the trial of this cause was set to follow 1507 Cr.

Entered in Court Journal Oct. 25, 1950.

[Title of District Court and Cause.]

PLEA AND SETTING TIME FOR TRIAL

The Government was represented by Everett, U. S. Attorney, the defendants were present in person and represented by Quincy Benton.

The Plea of the defendants to the Indictment as entered on October 25, 1950, being in error, no plea having been made by the defendants, it was Ordered that the Plea be entered forthwith.

Upon being individually asked if they were

Guilty or Not Guilty of the crime charged in the Indictment, to wit: Illegal Possession of Narcotic Drugs, each defendant individually pled Not Guilty, which Plea was accepted and Ordered entered and the trial of this cause was set to follow the trial of Cause No. 1507 Cr., USA v Wright, et al.

Entered in Court Journal Nov. 2, 1950.

In the District Court for the District of Alaska,
Fourth Judicial Division

No. 1509 Cr.

UNITED STATES OF AMERICA,
Plaintiff,
vs.

RAYMOND WRIGHT and VERNESTINE
WRIGHT,
Defendants.

VERDICT

We, the Jury, duly empaneled and sworn to try the above-entitled cause, do, from the law and the evidence therein, find

(a) That the defendant, Raymond Wright, is Guilty of the crime of feloniously having in his possession and control a narcotic drug, to wit: marijuana, as set forth in the indictment in this case.

(b) We, the Jury, further find that the defendant, Vernestine Wright, is Guilty of the crime of feloniously having in her possession and under her control a narcotic drug, to wit: marijuana as set forth in the indictment in this case.

Dated at Fairbanks, Alaska, this 11th day of November, 1950.

/s/ EDGAR S. PHILLCO,
Foreman.

Entered in Court Journal Nov. 11, 1950.

[Endorsed]: Filed November 11, 1950.

In the District Court for the District of Alaska,
Fourth Judicial Division

No. 1509 Cr.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAYMOND WRIGHT and VERNESTINE
WRIGHT,

Defendants.

JUDGMENT AND COMMITMENT

On the 22nd day of November, 1950, came the United States Attorney, and the defendants, Raymond Wright and Vernestine Wright, appeared in person and by counsel.

It is Adjudged that the defendants have been convicted on a verdict of guilty of the crime charged in the indictment on file herein, to wit, feloniously possessing and having under their control a narcotic drug, to wit, *Cannabis sativa indica*, commonly referred to by the name of "Marihuana," committed in the Fourth Judicial Division, Territory of Alaska, on the 4th day of August, 1950; and the defendants having been asked whether they had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court;

It Is Ordered and Adjudged:

That the defendants are guilty, as charged in said indictment, of the crime of feloniously possessing and having under their control a narcotic drug, and that the defendant, Raymond Wright, shall be confined in the United States Penitentiary at McNeil Island, Washington, for a period of Two (2) years, such sentence to commence on the 22nd day of November, 1950, it being the judgment of the Court that said sentence shall commence at the termination of the Three (3) year sentence imposed on the 22nd day of November, 1950, against the defendant, Raymond Wright, in Criminal Cause No. 1507, entitled "United States of America vs. Raymond Wright," in this Court.

It Is Further Ordered and Adjudged:

That the defendant, Vernestine Wright, shall be confined in the Federal Reformatory for Women at

Alderson, West Virginia, for a period of Two (2) years, such sentence to commence on the 22nd day of November, 1950, and that such sentence is hereby suspended until the further order of this Court, pursuant to the laws of Alaska on the subject.

It Is Ordered that the Clerk deliver a certified copy of this Judgment and Commitment to the United States Marshal, or other qualified officer, and that the same shall serve as the commitment herein, and that said defendants pay the costs of this action, jointly or severally, in the sum of \$31.50, to be taxed by the Clerk of the Court.

Done at Fairbanks, Alaska, this 22nd day of November, 1950.

/s/ HARRY E. PRATT,
District Judge.

Entered in Court Journal Nov. 22, 1950.

[Endorsed]. Filed November 22, 1950.

[Title of District Court and Cause.]

MOTION FOR CHANGE OF VENUE

Comes now the Defendants above-named by their attorneys, Quincy Benton and Julien A. Hurley, and respectfully move the Court for an order herein for a Change of Venue transferring this case to some other Division of the Territory of Alaska for the reason that it is impossible for the said Defend-

ants to get a fair and impartial trial in Fairbanks, Alaska, where practically all of the jurors on the panel from which the jury for the said action must be drawn are residents of the town of Fairbanks, Alaska, or in the near vicinity thereof, and for the further reason that one of the Defendants was convicted and the case dismissed against the other in a former trial which was concluded the day before this trial started, and for the further reason that the said case has been discussed and the said Defendants have been discussed by the people generally in Fairbanks, Alaska, and vicinity, and as shown by the Affidavits hereto attached in support of this Motion it is evident that a fair and impartial trial can not be had in Fairbanks, Alaska.

/s/ QUINCY BENTON,

/s/ JULIEN A. HURLEY,

Attorneys for Defendants.

[Title of District Court and Cause.]

AFFIDAVIT

United States of America,
Territory of Alaska,
Fourth Judicial Division—ss.

Robert Hoopes, being duly sworn upon oath, deposes and says:

I am acquainted with Raymond Wright and Vernestine Wright; I know they have been indicted for a criminal offense because I furnished part of

the bond required for their release when they were arrested; I was criticized for furnishing their bond as above mentioned by the present United States Marshal for the Fourth Division, Territory of Alaska; and, I feel that the state of public prejudice is so strong in this community that neither of the above-mentioned defendants can obtain a fair trial in this case.

/s/ ROBERT HOOPES.

Subscribed and sworn to before me this 7th day of November, 1950.

[Seal] /s/ QUINCY BENTON,
Notary Public in and
for Alaska.

My commission expires: 7/16/'52.

[Title of District Court and Cause.]

AFFIDAVIT

United States of America,
Territory of Alaska,
Fourth Judicial Division—ss.

Quincy Benton, being duly sworn upon oath, deposes and says:

I am one of the attorneys for Raymond Wright and Vernestine Wright; I have heard so many people discuss the present criminal charge against the above-mentioned defendants that I am convinced they cannot obtain a fair and impartial trial in

Fairbanks, Alaska; I know there is much prejudice against the defendants and I will be able to furnish many affidavits so stating by not later than ten o'clock on the morning of November 8th, 1950.

The knowledge of the existing strong public prejudice was without my knowledge until this date, so, in the interest of fairness and justice to the defendants, and to guarantee them their constitutional rights to a fair and impartial trial, I make this affidavit in their behalf.

I further state that this affidavit is not made for the purpose of delay, but to insure and protect the interests of my clients.

/s/ QUINCY BENTON.

Sworn to and subscribed before me this 7th day of November, 1950.

[Seal] /s/ MARGERY EASTON,
Notary Public in and
for Alaska.

My commission expires: 6/3/52.

Receipt of Copy acknowledged.

[Endorsed]: Filed November 7, 1950.

[Title of District Court and Cause.]

ORDERED THAT MOTION FOR CHANGE
OF VENUE BE DENIED

Came the respective counsel as heretofore including Quincy Benton for the defendants; came the de-

fendants in person; came the entire Panel of the Petit Jury, each person answering to his or her name excepting Bud Meyeres who was excused until November 13, and John Contento, who, for good cause, was excused from the Panel.

The entire Panel was excused from the Court Room.

Mr. Benton and Mr. Hepp presented argument to the Court on the defendants' Motion for a change of Venue.

It was Ordered that the Motion be denied. The Jury was recalled, each person answering to his or her name.

Mr. Hurley continued his examination of those jurors in the Jury Box for cause.

A jury was duly empaneled and sworn consisting of the following persons, to wit:

Dorrine Montgomery, Geo. E. Purser, Wilmer A. Kirsch, Ellen A. Lindeman, Victor Johnson, Essie R. Dale, Gladys B. Joy, Walter B. Steigman, Carrie Korbo, Thomas Paskvan, Jr., Laura Nehrbas, Edward S. Philleo

and those jurors not engaged in the trial of this cause were excused to report again at 10:00 a.m., Thursday, November 9, 1950.

The Court duly admonished the Jury and the trial of this cause was continued until 10:00 a.m., Wednesday, November 8, 1950.

Entered in Court Journal, Nov. 7, 1950.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Raymond Wright, Fairbanks, Alaska.

Julien A. Hurley and Quincy Benton, Attorneys
for defendant.

Offense: Feloniously possessed and had under his control a narcotic drug, to wit, cannabis sativa indica, commonly referred to by the name of "marijuana," in violation of Section 40-3-2, of the A. C. L. A., 1949.

Whereas, Raymond Wright was duly tried and by a jury's verdict convicted of the crime of feloniously possessing and having under his control a narcotic drug, to wit, cannabis sativa indica, commonly referred to by the name of "marijuana," in violation of Section 40-3-2, of the A. C. L. A., 1949, on the 22nd day of November, 1950; and was sentenced by the court to be confined in the United States penitentiary at McNeil Island, Washington, for a period of two years.

The said Raymond Wright, Defendant, is now confined in the Federal jail in the Federal Building at Fairbanks, Alaska.

I, the above-named appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the above stated judgment.

Dated this 27th day of November, 1950.

/s/ RAYMOND WRIGHT,
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed November 27, 1950.

[Title of District Court and Cause.]

ORDER FOR RELEASE

Whereas, Raymond Wright was duly tried, and by a jury's verdict, convicted of the crime of feloniously possessing and having under his control a narcotic drug, to wit, cannabis sativa indica, commonly referred to by the name of "marijuana," in violation of Section 40-3-2, of the A. C. L. A., 1949, on the 22nd day of November, 1950; and was sentenced by the court to be confined in the United States penitentiary at McNeil Island, Washington, for a period of two years; and

Whereas, the said Raymond Wright has furnished bail in accordance with the law thereto pertaining,

Now, therefore, you, the United States Marshal for the Fourth Division of the Territory of Alaska, are instructed to release the said above-named defendant pending further orders from the above-mentioned Court.

Done this 27th day of Nov., 1950.

/s/ HARRY E. PRATT,

Judge of the District Court.

Receipt of copy acknowledged.

Entered in Court Journal, Nov. 27th, 1950.

[Endorsed]: Filed November 27, 1950.

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO FILE
RECORD AND DOCKET TRANSCRIPT

On motion of attorney for the above-named defendant, Raymond Wright, for an order extending the time for filing, recording and docketing the transcript of the above-entitled case on appeal, and it appearing to said Court that by reason of the necessity for the Court Reporter to order supplies for preparing said transcript; said Court Reporter's absence from the jurisdiction of the above-entitled Court; said Court Reporter's time since the filing of the Notice of Appeal having been taken up by his regular trial reporting duties; and the possibility that such condition will continue for some time, it is inadvisable to require the Clerk of this District Court to prepare and deliver said record on appeal within the time heretofore allowed, and said Court being duly advised in the premises and good cause appearing therefor,

It Is Hereby Ordered that the time within which the record on appeal in this case shall be deposited and filed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, and said case docketed therein, be and it is hereby enlarged to and including the 130th day following the date of filing the

Notice of Appeal in said above-entitled case; namely: the 25th day of February, 1951.

Dated at Fairbanks, Alaska, this 5th day of January, 1951.

/s/ HARRY E. PRATT,
District Judge.

Entered in Court Journal, Jan. 5, 1951.

[Endorsed]: Filed January 5, 1951.

[Title of District Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD

To: John B. Hall, Clerk of the above-entitled Court:

You will please prepare transcript of record in the above-entitled cause, to be filed in the Office of the Clerk of the United States Court of Appeals for the Ninth Circuit sitting in San Francisco, California, upon the appeal heretofore perfected at said Court, and include therein the following papers and records, to wit:

1. Indictment.
2. Motion to Dismiss Indictment.
3. Order overruling Motion to Dismiss Indictment.
4. Order, Plea and Setting Time for Trial.
5. Verdict.

6. Judgment and Commitment.

7. All Exhibits as follows: A, B, C, D, E, F, G, and H.

8. Motion for Change of Venue and Affidavits in Support of Motion.

9. Minute Order Overruling Motion for Change of Venue.

10. Notice of Appeal.

11. Order for Release.

12. Order Extending Time to File Record and Docket Transcript.

13. Transcript of Testimony and Trial.

14. Praeceptum for Transcript of Record.

The transcript is to be prepared as required by law and the rules and orders of this Court and the United States Court of Appeals for the Ninth Circuit and should be forwarded to said Court in San Francisco so that the same may be docketed therein on or before the 25th day of February, 1951.

Dated at Fairbanks, Alaska, this 23rd day of February, 1951.

/s/ QUINCY BENTON,

/s/ JULIEN A. HURLEY,

Attorneys for Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed February 23, 1951.

In the District Court for the District of Alaska,
Fourth Judicial Division

No. 1509 Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAYMOND WRIGHT and VERNESTINE
WRIGHT,

Defendants.

Appearances:

EVERETT W. HEPP,

United States Attorney,

Fairbanks, Alaska,

Attorney for Plaintiff.

QUINCY W. BENTON,

Fairbanks, Alaska,

Attorney for Defendants.

JULIEN A. HURLEY,

Fairbanks, Alaska,

Attorney for Defendants.

Before: Hon. Harry E. Pratt,

District Judge.

PROCEEDINGS

Be It Remembered, that upon the 7th day of November, 1950, at the hour of 10:00 o'clock a.m., the above-named defendants appeared in court in per-

son and represented by counsel, the Honorable Harry E. Pratt, District Judge, presiding:

The Court: This is the time set for trial in case 1509 criminal, United States against Raymond Wright and Vernestine Wright. The District Attorney seems to have disappeared.

(At this point, Mr. Hurley approached the bench and conferred with the court.)

The Court: Veniremen will be excused from the court room until called to return. Remain in the hall of the court room subject to call. That includes the veniremen who qualified this morning.

(The veniremen left the court room.)

Mr. Hurley: If the Court please, at this time I wish to move for a continuance until tomorrow morning at ten o'clock for two reasons. The first reason is that I was not called into this case until just about a day or two before I had to start the trial with the case of United States against John R. Weston and I have been trying cases every since and just completed the trial of a case against these same two defendants. I haven't had the proper time to look into the case and do not feel that [1*] I can do justice to the case if forced to go to trial at this time. The second reason is this, your Honor; that during the trial of this last case against these same defendants, it has been called to the attention of Mr. Quincy Benton and to myself that we probably can't get a fair and impartial trial of this case

* Page numbering appearing at foot of page of original Reporter's Transcript of Record.

in Fairbanks for the reason that there is public opinion and prejudice here in the town and it is such that we would be unable to get a fair and impartial trial. We expect to present a motion to the court for that purpose, for the purpose of a change of venue supported by proper affidavits and I believe that we will be able to present a sufficient showing that will entitle us to a change of venue and I would like to have time to present the showing.

We have been—Mr. Benton worked a good part of the night and he expects to be able to contact several people that he hopes to contact to make affidavits to support the showing. We can present the showing this afternoon probably by four o'clock to the court and if it is not allowed, we will be ready to prepare to go to trial in the morning at ten o'clock. If the showing—motion is granted, of course, we will be allowed to have a change of venue to one of the other divisions in the Territory and I believe that the showing will be sufficient to entitle us to the change of venue. It was impossible for us to prepare the showing in time to have it presented this [2] morning.

Mr. Hepp: May it please the Court—

The Court: Mr. Hepp.

Mr. Hepp: I am not going to urge this case on to hearing now. The defendants feel that they will be prejudiced thereby. I feel that they have a right to their day in court under such circumstances that they would be well represented. Mr. Hurley feels that he hasn't had time to prepare this case. I don't

know. Of course, I might state to the court that I haven't had a whole lot of time either but I am not resisting that. I have probably been just as busy as Mr. Hurley if not more so, but I am not going to urge the case for immediate hearing, even though it was set for this morning. Concerning this motion filed, of course I will not be able to reply to that until I see what their showing contains. I might state that it seems quite a sad state of affairs if a person can't be judged by his neighbors and his friends or the fellow citizens of a community, but then, I reserve my showing to be made after I learn the import of their basis for a change of venue.

The Court: There are two attorneys for the defendants in this case. One attorney has been in the case ever since it started. The other attorney has not been in so terribly long—only about a week perhaps. [3] Nevertheless, there are two of them and there is no showing on file in this case as required by law and I don't think that there is any sufficient showing to grant a continuance at this time. Also, I think that the answers of the jury impaneling would go somewhat to show whether or not they can get a fair and impartial jury here. So, the oral motion will be denied.

Mr. Hurley: May it please the court, can I have time to file a written motion?

The Court: Well, there are two attorneys in the case. One can go ahead with the choosing of the jury.

Mr. Hurley: Yes, your Honor, but Mr. Benton isn't here. I would like to get him here and I

would like to file the motion before we start drawing the jury. Mr. Benton is working on it. I will get in touch with him just as soon as possible. Could we have until two o'clock?

The Court: No. I think this is the right time to start choosing the jury. He can prepare the motion and when you have filed it, I will consider it. Go ahead and choose the jury at this time.

Mr. Hurley: Save an exception to the court's ruling.

The Court: Call the jury. [4]

Mr. Hurley: Could I—I don't know how I can get in touch with him this quick.

The Court: Call the jury.

(The veniremen were called back into the court room.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They are all present, your Honor.

(Whereupon, Mr. Hepp and Mr. Hurley proceeded to examine the jurors until 12 o'clock at which time the court was recessed until 2 o'clock p.m.)

(At 2 o'clock p.m. the trial of this case was resumed.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They are all present, your Honor.

The Court: Very well. Proceed with the examination of the jury.

Mr. Benton: If your Honor please, I have filed a motion.

The Court: You wish to take up that now? [5]

Mr. Benton: Yes, your Honor.

The Court: Very well.

Mr. Benton: I think that possibly should be taken up outside—— (Interrupted.)

The Court: The jury will be excused to remain in the hallway subject to call.

(The jury left the court room.)

The Court: Mr. Hepp, do you require any time to file an answer to the affidavits?

Mr. Hepp: No, I am not going to ask any time to file an answer. I would like to answer the oral arguments in court.

The Court: I couldn't quite understand the last part.

Mr. Hepp: I say I would like an opportunity to answer in open court the oral arguments of counsel.

The Court: Very well, proceed.

(Mr. Benton presented oral argument to the court in support of a change of venue.)

(Mr. Hepp answered Mr. Benton's argument, resisting the motion.)

(Mr. Benton presented further argument to the court.)

The Court: We have had twelve jurors [6] in the box so far and two of them sat upon the former trial of this defendant and were disqualified, but all of the other ten had no opinion and were perfectly fair and square jurors who felt they could try this defendant impartially. Now, I think that is probably a general average of the rest of the jurors. We have almost 60 jurors in the panel, at least 50, and it seems to me that it is more than likely there will be no trouble at all in getting 12 jurors who are perfectly fair and not influenced by anything they shouldn't be. You could go out and get a number of affidavits. No doubt, Mr. Hepp could get a number of affidavits stating the opinion of people to the contrary and I wouldn't know any more when I got through than I do right now. The fact that these jurors who have been examined on their oath have qualified so largely makes me feel that it is quite a certainty there will be no trouble in getting a jury out of this panel. Therefore, the motion for a continuance is denied.

Mr. Hepp: Your Honor, it is a motion for a change of venue.

The Court: Motion for change of venue is—it is the same thing.

(At this time, the jury returned into the court room.)

The Court: Call the roll of the jury. [7]

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

(Mr. Hepp and Mr. Hurley completed their examination of the jurors and a jury was duly impaneled and sworn to try the above-entitled case. At 4:50 o'clock p.m., the court duly admonished the jury and the trial of this cause was adjourned until November 8, 1950, at 10 o'clock a.m.)

Be It Remembered, that upon the 8th day of November, 1950, the above-named defendants appeared in court in person with their counsel, the Honorable Harry E. Pratt, District Judge, presiding;

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Hurley: We are ready, your Honor.

Mr. Hepp: Ready.

The Court: Very well. Do you care [8] to make an opening statement?

(Whereupon, Mr. Hepp presented an opening statement to the jury followed by Mr. Hurley.)

The Court: Call your witness.

Mr. Hepp: Call Power G. Greer.

POWER G. GREER

called as a witness in behalf of the government,
being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name to the jury please? A. Power G. Greer.

Q. By whom are you employed, Mr. Greer?

A. United States Treasury Department.

Q. And in what capacity?

A. As a treasury enforcement agent.

Q. How long have you been employed by the United States Treasury?

A. In the United States Treasury Department since 1937.

Q. Where is your station?

A. Anchorage, Alaska.

Q. Would you state what your duties are as a treasury enforcement agent please?

A. As a treasury enforcement agent here in the Territory [9] of Alaska, I have all of the enforcement duties pertaining to all of the enforcement agencies under the Treasury Department, which consists of the Bureau of Narcotics, the Intelligence Unit, the Customs Service, the Alcohol Tax Unit and the Secret Service.

Q. Do you know either of the defendants, Mr. Wright or Vernestine Wright?

A. I know them both.

Q. When did you first learn to know them, Mr. Greer?

(Testimony of Power G. Greer.)

A. I only met—the first time I actually met them was on August 4, 1950.

Q. Are you familiar with the premises in town that is known as the Club 69?

A. Yes, sir.

Q. Have you ever been to those premises, Mr. Greer?

A. Yes, sir.

Q. When did you go to the premises first?

A. On August 4, 1950.

Q. What was the occasion of your going to the premises at that time?

A. To assist Deputy United States Marshal Barber in the execution of a search warrant.

Q. Did you go alone or in the company of any other people, Mr. Greer?

A. In that party, besides Deputy Marshal Barber and myself, [10] was Deputy Marshal Bremer and Deputy Marshal Urie, special agents of the Office of Special Investigation of the United States Air Force, Dennis Stevenson, Siler and Tweedy.

Q. What did you do after you arrived at the premises of the Club 69?

A. We began the search of the premises.

Q. What did you do by way of searching the premises, Mr. Greer?

A. Mr. Barber and I entered the club proper, the Club 69. I went to a rear bedroom in this club and started to search there. At the time that I entered this bedroom, it was dark. Coming out of the

(Testimony of Power G. Greer.)

bright sunlight, there was a very small dim green light burning. I could not determine at that time who, or if any one, was in the room, but I could hear movements of persons.

So, I returned to the car and obtained a flash light, re-entered this bedroom and as I started to go into the bedroom, a young colored soldier came out of the door and he was fastening up his coveralls that he was wearing at the time. With the aid of the flash light, I turned on the large light in the the room and behind a curtained closet was a young colored girl who was nude. She was told to get her clothes on which she did and I told her and the colored boy to go out and sit in the club which they did. [11]

I finished my examination of this room and after I had completed my investigation or examination of this room, someone on the outside called my attention or called me to come out where they were. I went out and assisted some of the other men in the examination of some of the other parts of the premises when Mr. Barber came to the door of the club and called me. I went back into the club and he had a packet in his hand which he showed me. He said, "I found this"— (Interrupted.)

Mr. Hurley: We object to what he told him.

Q. (By Mr. Hepp): Just state what you did, Mr. Greer. A. I asked— (Interrupted.)

Mr. Hurley: I object to what he asked him and any conversation between him and Mr. Barber.

The Court: Objection sustained.

(Testimony of Power G. Greer.)

The Witness: Well, as a result of our conversation, he took me to a part of the club proper which is just inside the bar or the little enclosure that—which is actually part of the club 69 and showed me—— (Interrupted.)

Mr. Hurley: I object to what he told him or showed him.

Mr. Hepp: I believe he can state what he showed him. [12]

The Court: Objection overruled.

Mr. Hurley: Save an exception.

Witness: He showed me on the floor back of a large green chair where this packet was found.

Mr. Hurley: Now, I move that the answer and all that testimony be stricken out as hearsay, what somebody told him.

The Court: Objection overruled, motion denied.

Mr. Hurley: Exception.

Q. (By Mr. Hepp): Just continue with—— (Interrupted.)

A. Shortly thereafter, one of the other men on the outside called my attention and I went out to a small cabin located just to the rear of the Club 69 where Deputy Marshal Bremer showed me a small tobacco tin which at that time was resting on a table in the cabin and I examined the tobacco tin. Mr. Bremer also called my attention to just outside of the cabin in the grass, approximately three or four hundred feet away from the west side of the cabin and—— (Interrupted.)

(Testimony of Power G. Greer.)

Mr. Hurley: I object to what this man showed him and what he found out there in the grass. There has been no foundation laid to show that these defendants had any knowledge of what was out there or anything of that [13] kind; incompetent, irrelevant and immaterial.

Mr. Hepp: I believe that is purely a question of fact for the jury to determine. I believe——
(Interrupted.)

Mr. Hurley: Everything is a question of fact for the jury to determine, but they have got to lay a foundation.

The Court: Well, perhaps you should show on whose premises it was and on what premises.

Mr. Hurley: Who occupied these places out there?

Q. (By Mr. Hepp): Would you state whether or not you have had occasion to observe any container close to the Club 69 and if so, would you state at what position in relation to the Club 69 it was?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial and no proper foundation laid; nothing to show that it has any connection with the defendants whatever.

Mr. Hepp: Your Honor, I think that is—that will be established right on down through this trial. I don't think it is necessary for me to establish that right at this moment.

Mr. Hurley: I do. [14]

(Testimony of Power G. Greer.)

The Court: During the course of your examination, you will show by other witnesses or this witness where these premises are and give a description so we can see if they belong to these people or not?

Mr. Hepp: 'Yes, I will do that right now, your Honor.

The Court: And in whose possession they are.

Mr. Hepp: I believe I can do that right now.

Q. (By Mr. Hepp): Is—were you able to observe, Mr. Greer, any indication of a boundary between the property of the Club 69 that you have testified that you had gone to and any adjoining property?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial.

The Court: Objection overruled.

Witness: I did not observe any boundary, no, sir.

Q. (By Mr. Hepp): Are there any other houses in close proximity or buildings of any kind that appear to be dwelling houses close to the Club 69?

Mr. Hurley: We object to that, if the [15] Court please, as incompetent, irrelevant and immaterial. It isn't a question of whether dwelling houses are near the place.

The Court: Objection overruled.

Witness: The—there is a building located just north of the Club 69 that is in process of being erected. Other than that building and the club proper, there is a small trailer located approxi-

(Testimony of Power G. Greer.)

mately 10 feet to the rear of the Club 69 and just to the rear of the trailer, approximately three or four feet, was a small cabin and just north of this cabin, approximately three or four feet, was a similar cabin. Other than these buildings, there was nothing anywhere near these premises.

Q. (By Mr. Hepp): And of these two buildings that you have referred to, Mr. Greer, is either of them the one which you testified you found this tobacco tin placed—sitting on a table?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial, no proper foundation laid yet as to who occupied it.

The Court: Objection overruled.

Mr. Hurley: Save an exception.

Witness: Yes, sir. The small cabin that is located on the, I would say the southern portion of this property, was the cabin in which I found the tobacco [16] tin.

Q. (By Mr. Hepp): How far away is that from the main structure of the Club 69?

A. Approximately 12, 15 feet.

Q. Twelve, fifteen feet. Now, this other cabin that you have testified concerning to, where is its location in relation to the premises, that is, this principal structure of the premises of the Club 69?

A. That cabin is located almost approximately due west of the main Club 69.

Q. And how many feet between the—— (Interrupted.) A. Same distance, 12, 15 feet.

(Testimony of Power G. Greer.)

Q. Twelve, fifteen feet. Incidentally, Mr. Greer, was anyone present during this search other than these parties that you have named?

A. Yes, sir.

Q. Who was present?

A. There was a white soldier who was sitting in the Club 69 proper when I entered. Two of the other men who were searching the trailer found Mrs. Wright. She was not in the club proper at the time the search commenced.

Q. Did you see her out at that—on the premises of the Club 69 at any time during your search?

A. Yes, sir. Approximately ten minutes after the search [17] began, she came out to the club proper.

Q. Just “yes” or “no,” Mr. Greer, was your attention called to any other containers at the time of this search?

A. Yes, sir.

Q. Just “yes” or “no,” do you know where those containers were located?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid.

Mr. Hepp: I believe, your Honor, that I certainly can establish where they are so that their position can be fixed in the minds of the jury in relation to this property.

The Court: Objection overruled.

Mr. Hurley: Exception.

Witness: Yes, sir.

(Testimony of Power G. Greer.)

Q. (By Mr. Hepp): In relation to the principal structure or either of these two cabins that you have mentioned, what was the distance from that location to the closest building?

A. The three tobacco tins—— (Interrupted.)

Mr. Hurley: Now, I object to that. He didn't ask him about tobacco tins.

Q. (By Mr. Hepp): What was the location of this—that I have previously [8] referred to and which you have testified concerning, how far was that location from any of the buildings that you have named here?

A. Within three or four feet.

Mr. Hurley: What location are you talking about?

Mr. Hepp: I am talking, Mr. Hurley, about the location where his attention was called to some other containers.

Mr. Hurley: I didn't hear that. I object to that and move that the answer be stricken out, incompetent, irrelevant and immaterial. Sounds to me like he is talking about other buildings in the premises. That's the way the question sounded to me.

The Court: Objection overruled.

Mr. Hurley: Exception.

Q. (By Mr. Hepp): You say it was within three or four feet of a building, Mr. Greer?

A. Yes, sir.

Q. Of which building?

(Testimony of Power G. Greer.)

A. Within three or four feet of the southernmost cabin located on these premises.

Q. And that cabin is approximately 12 feet from the principal structure of the Club 69? [19]

A. 12 or 15 feet, yes, sir.

Q. Is there any object appearing as a boundary between this location and the premises of the Club 69? A. Not that I noticed.

Q. Would you state what you saw there please?

Mr. Hurley: Saw where?

Mr. Hepp: At this location.

Mr. Hurley: Well I object to that, if the Court please as too general, incompetent, irrelevant and immaterial.

Mr. Hepp: He certainly can state what he saw there, your Honor.

The Court: Objection overruled.

Mr. Hurley: I don't know what he is talking about.

The Witness: In the grass, approximately three or four feet west of this southernmost cabin, I found three tobacco tins similar to the tobacco tin that I found in the cabin itself.

Q. What did you do with these cans?

A. I examined them.

Q. What did you find in them, Mr. Greer?

A. A residue of a substance.

Q. Do you know what that substance was?

A. In my opinion, yes, sir. [20]

Q. What was it?

(Testimony of Power G. Greer.)

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid, calling for a conclusion and a guess. Nothing to show that these had anything to do with the defendants, no connection whatever. He says he found them out in the grass someplace.

The Court: Objection overruled.

Mr. Hurley: Save an exception.

The Witness: The substance or residue that I found in each of the four tobacco tins contained a very small amount of marihuana.

Q. What did you do with this substance? What did you do with it, if anything, Mr. Greer?

A. It was sealed in a narcotic—in a Bureau of Narcotic sealing envelope.

Q. Did you seal it?

A. Yes, sir. I sealed it myself in the presence of Deputy Marshal Barber. They were later forwarded to the chemist, Mr. Hugo Ringstrom, in Seattle under post-office registry.

Q. Would you state what, if anything, you did with the cans?

A. Yes, sir. They were taken to Anchorage and was stored in my office room which is located in my home. [21] Later on, my young boy got into the cans and destroyed them.

Q. Getting back to this packet that you testified that you observed inside of the premises, do you know what, if anything, happened to that or was done with that? A. Yes, sir.

(Testimony of Power G. Greer.)

Q. What was done, if you know of your own knowledge, Mr. Greer?

A. This packet was put into a similar Bureau of Narcotic sealing envelope.

Q. Who put it in?

A. I did. It was sealed. It was witnessed by Mr. Barber and it was forwarded at the same time to the chemist under the same registry as the other container.

Q. Did you examine the contents of that packet at the time you were out at the premises?

A. Yes, sir.

Q. What did it contain, Mr. Greer?

A. That packet was 16 small home made cigarettes wrapped in brown thin paper, the contents of which was marihuana.

Q. Is marihuana ever referred to by any other name to your knowledge, Mr. Greer?

A. Yes, sir.

Q. By what other name or names?

A. It is referred to commonly as weed, sticks and reefers.

Q. Mr. Greer—just a moment. (To Clerk): Mr. Clerk, [22] would you mark this object for identification please?

Clerk of the Court: Plaintiff's identification number one.

(A brown envelope with post office registry number 2190, addressed to Mr. Hugo Ringstrom, was received and marked Plaintiff's identification 1.)

(Testimony of Power G. Greer.)

Q. (By Mr. Hepp): Mr. Greer, I show you plaintiff's identification number one which appears to be a brown envelope containing stamps and writing. I ask you to examine it if you will please. (Handed document to witness.) State if you know what it is, please. A. Yes, sir; I do.

Q. What is it, please?

A. This is the envelope in which I placed the two narcotic sealed envelopes containing the packet of 16 marihuana cigarettes and the residue of marihuana that I removed from the four tobacco tins.

Q. What did you do after you placed those articles in that envelope?

A. It was sealed and addressed.

Q. Who sealed it? A. I did, sir.

Q. What did you do next?

A. I addressed it. [23]

Q. To whom did you address it?

A. To Mr. Hugo Ringstrom, chemist in charge, Alcohol Tax Unit, 210 Federal Building, Seattle, Washington.

Q. What did you do then with it?

A. Up in the left hand corner, I placed my return address, post office box 963, Anchorage, Alaska.

Q. And then what did you do?

A. I took it to the post office where I had it registered under post office register 91—2190 and placed it in the United States mail.

Q. Did you place any stamps on it?

A. Yes, sir.

(Testimony of Power G. Greer.)

Mr. Hepp: Mr. Clerk, would you mark this article for identification?

Clerk of the Court: Plaintiff's identification number two.

(A small brown envelope labeled "Treasury Department, Bureau of Narcotics," was received and marked for identification as Plaintiff's identification number 2.)

Q. (By Mr. Hepp): Mr. Greer, I show you government's identification number two appearing to be a brown envelope with sealers and the words "marihuana residue" appearing thereon. I ask you to examine it and state—just examine it please. (Handed envelope to witness.) State if you know what it is, [24] please? A. Yes, sir.

Q. What is it?

A. It is a Treasury Department, Bureau of Narcotics form number 150 which is a brown envelope with sealers.

Q. Have you ever seen that envelope before?

A. Yes, sir.

Q. When did you see it, Mr. Greer?

A. The last time was on August the 5th or 6th, 1950.

Q. Did you do any act concerning that envelope at that time, Mr. Greer? A. Yes, sir .

Q. Would you state what you did, please?

A. On August 5th, the day after this search was made, I placed in this envelope the residue of marihuana that was—that I scraped from the four to-

(Testimony of Power G. Greer.)

bacco tins. That was seized the day prior. This envelope was sealed on August 5, 1950, in the presence of Al Barber, Deputy United States Marshal.

Q. What did you do with it then?

A. I kept it in my possession until I returned to Anchorage which was on the same day. As I recall, on the following Monday, the 7th of August, this, along with a similar envelope, was placed in the large addressed envelope addressed to the chemist in Seattle. [25]

Q. Is that the envelope which is labeled government's identification number one that you just examined?

A. Yes, sir.

Q. And you posted that, did you? You placed that in your envelope, did you?

A. Yes, sir.

Q. And it was sent, was it, with this envelope that you have previously testified about?

A. Yes, sir.

Clerk of the Court: Government's identification number three.

(A small brown envelope labeled "Treasury Department, Bureau of Narcotics," was received and marked government's identification number three.)

Q. (By Mr. Hepp): Mr. Greer, I show you government's identification number three, appearing to be a brown envelope with sealers and writing including the words "16 marihuana cigarettes."

(Testimony of Power G. Greer.)

Would you examine it please (handed to witness) and state if you know what it is please?

A. Yes, sir. It is a Treasury Department, Bureau of Narcotics form, number 150 which is a brown envelope which has sealers on it. On the reverse of which I, myself, wrote "16 marihuana cigarettes," sealed 8-5-50.

Q. When did you see this—you state that you wrote those [26] words on that envelope?

A. Yes, sir.

Q. When did you see that envelope last, sir?

A. My best recollection it was the following Monday which was on August 7th.

Q. What did you do with the envelope?

A. I placed it along with the other similar envelope into the larger brown envelope in Anchorage. I addressed it to the Chemist in Charge, under post office registry and it was sent to the chemist.

Q. Did this envelope, being government's identification number three, contain anything in it when you—at the time when you sealed it into the large envelope?

A. Yes, sir.

Q. What did it contain, Mr. Greer?

A. 16 marihuana cigarettes.

Q. Who placed those articles in that envelope?

A. I did.

Q. Where had you obtained those articles that you placed in that envelope?

A. I obtained them from the Club 69.

Q. Are they the articles—— (Interrupted.)

(Testimony of Power G. Greer.)

Mr. Hurley: Now we move that the answer be stricken out, incompetent, irrelevant and immaterial. It doesn't conform to his testimony or anything else. He [27] said he never saw those cigarettes until somebody showed it to him and now he says he obtained them at the Club 69 and there is nothing—— (Interrupted.)

Mr. Hepp: Your Honor—— (Interrupted.)

The Court: Motion denied.

Q. (By Mr. Hepp): Would you answer the question, please?

A. Yes, sir. I obtained them at the Club 69.

Q. Are they the articles that you previously testified as having been—had them handed to you in the premises of the Club 69? A. Yes, sir.

Q. Are they in the same condition now as they were when you saw them last, Mr. Greer?

Mr. Hurley: What are you talking about now?

Mr. Hepp: The articles that are in this government's identification—— (Interrupted.)

Mr. Hurley: I object to that. He hasn't said anything about the articles that were in there, your Honor.

Mr. Hepp: I believe he did.

Mr. Hurley: I don't see how he can say they're in the same condition or not. He doesn't show he is qualified to answer the question. They haven't shown [28] them or where they are or anything about them.

Mr. Hepp: I believe he testified that there were

(Testimony of Power G. Greer.)

16 articles in that that he had placed them——
(Interrupted.)

Mr. Hurley: Yes and—— (Interrupted.)

Mr. Hepp (Continuing): ——in the envelope
—— (Interrupted.)

Mr. Hurley (Continuing): ——mailed them to
somebody. Now he wants to know if they are in the
same condition now.

Q. (By Mr. Hepp): Mr. Greer, is there any-
thing in that envelope, government's identification
number three? A. Yes, sir.

Q. What do you see in that envelope?

A. Some cigarettes wrapped in brown thin
paper.

Q. How many of them are there? A. 16.

Q. Have you ever seen those objects before, Mr.
Greer? A. Yes, sir.

Q. Where did you see them?

A. First time was on August 4th, 1950.

Q. Where did you see them?

A. At the Club 69.

Q. Are they in the same condition as they were
when you [29] saw them?

A. Apparently so.

Q. You can see no change, no difference, is that
right, Mr. Greer? A. No, sir, I can not.

Q. Was either of the defendants present when—
at any time—when you had possession of those
narcotic—those cigarettes out at the Club 69?

A. Vernestine Wright was present.

(Testimony of Power G. Greer.)

Q. She saw that you had them, did she?

A. Yes, sir.

Q. Did she make any statement concerning it at the time, Mr. Greer?

A. Yes, sir.

Q. Who was present at that time?

A. I am not sure whether all of the officers were in the club at the time or not. Most of them were and besides the officers, the white soldier, the colored soldier and the colored girl that were in the bedroom.

Q. What did she say in regard to that?

A. She stated she did not know anything about them, didn't know anything about marihuana, that she never smoked marihuana and had never used it in any way.

Q. Did you see Raymond Wright at the premises at the time that you have testified? [30]

A. No, sir.

Q. Did Mrs. Wright make any statement to you about his whereabouts?

A. No, sir. I asked her where he was and she said he was out somewhere. I don't recall if she told me where he was.

Q. She said he was out somewhere?

A. Yes.

Mr. Hepp: You may question the witness.

Mr. Hurley: I wonder if we can have about a ten minutes recess, your Honor. I would like to look at this exhibit before I cross-examine.

The Court: Yes, take a ten minute recess.

(Testimony of Power G. Greer.)

(Whereupon, the court recessed for ten minutes and then reconvened.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court called the roll.)

Clerk of the Court: They are all present, your Honor.

The Court: Very well. Counsel ready to proceed?

Mr. Hurley: Yes, your Honor. [31]

Mr. Hepp: Ready.

Cross-Examination

By Mr. Hurley:

Q. Mr. Greer, how long have you been employed by the government? A. Since 1931, sir.

Q. And in what capacity?

A. I started in 1931 as a prohibition agent in the Department of Justice.

Q. I see. And you say you went out with the search warrant on the 4th of August, was that right, of this year, Mr. Greer? A. Yes, sir.

Q. And what time did you go out there?

A. Approximately one o'clock, one-thirty in the afternoon.

Q. You say between one or one-thirty or little after one, is that right?

A. I believe we left the Marshal's office around one or little after.

(Testimony of Power G. Greer.)

Q. And I think you said you found a can—a tobacco can out there?

A. Yes, sir. It was called to my attention and I picked them up.

Q. Oh, you didn't find them?

A. Yes, sir; I found them. They were—— (Interrupted.) [32]

Q. I say, did you find the tobacco can or did somebody else find them?

A. They had been previously found.

Q. Oh! I thought you said you went into a room where there was a colored boy and a colored girl and found a tobacco can, Mr. Greer?

A. No, sir, I didn't say—— (Interrupted.)

Q. You didn't find anything yourself?

Mr. Hepp: Now, I object to that, your Honor unless he specifies what incident he is—— (Interrupted.)

Q. (By Mr. Hurley): I say, while you were out there, you didn't find anything yourself?

A. No, sir; not until after it was called to my attention.

Q. I say you didn't find anything yourself?

A. No, sir, I didn't find—— (Interrupted.)

Q. All right. Somebody told you that they had found something, did they? A. Yes, sir.

Q. I see. And somebody told you they found a can in some room, did they?

A. They told me they found a can in a room and when my attention was called to it, it was in the cabin on the premises.

(Testimony of Power G. Greer.)

Q. In the room or where? [33]

A. It was in the room of the cabin, on the premises.

Q. It was—in the room of a cabin?

A. Yes, sir.

Q. Did you find any can in the 69 Club?

A. No, sir.

Q. Was your attention called to any can in the 69 Club, Mr. Greer? A. No, sir.

Q. Then somebody found how many cans out in the grass or outdoors someplace?

A. Three.

Q. And you didn't see them find them?

A. No, I didn't see them find it.

Q. Where were you when your attention was called to those three cans?

A. I was in the Club 69.

Q. Oh, I see. And then all the contents of the four cans were taken out, were they?

A. Yes, sir. I removed them myself.

Q. What?

A. Yes, sir; I removed them myself.

Q. And you put them all in one package?

A. Yes, sir.

Q. And you say that after you had scraped them all out, you had found some marihuana in the package that you had [34] scraped out with the four cans?

A. No, sir. When I examined them, I found residue of marihuana in the bottom of each.

Q. In each?

(Testimony of Power G. Greer.)

A. Yes, sir, and—— (Interrupted.)

Q. But you put them all together?

A. Yes, sir. I scraped the residue all out and put it all together.

Q. What does marihuana look like?

A. Well, it's—it looks like—it looks something like green rabbit tobacco.

Q. What? Green rabbit tobacco?

A. Green rabbit tobacco.

Q. Green rabbit tobacco? A. Yes, sir.

Q. I never heard of that. And you sealed that up and mailed it out? A. Sir?

Q. I say you sealed that up in a package and mailed it outside someplace? A. Yes, sir.

Q. And then you lost the cans?

A. No, sir; I didn't lose the cans. I kept custody of them, Mr. Hurley, in my office as I stated, which is in my home and while I was on a trip, my six year old boy got [35] hold of them and took his mother's scissors and took them all apart.

Q. Cut the cans up? A. Yes, sir.

Q. With scissors? A. Yes, sir.

Q. And what kind of tobacco cans were these?

A. There were three of them that were Velvet as I recall and one was a Prince Albert can.

Q. So, you don't have the cans anymore?

A. No, sir.

Q. And what does marihuana come in ordinarily? Is it usually in cigarettes?

A. That is the way it is consumed.

(Testimony of Power G. Greer.)

Q. I see. And did you find any cigarettes or was your attention called to them?

A. My attention was called to that.

Q. So, you don't know anything about where any was found out there?

A. Of my own knowledge?

Q. Yes.

A. No—of my own knowledge. Except where I found—except where the tobacco tins were placed when I found them, I picked them up.

Q. How did you come—how do you mean “placed” when you [36] picked them up?

A. The first tobacco tin was placed on a table inside the small southernmost cabin.

Q. Who by?

A. I don't know, sir. It was there when I found it.

Q. I thought you said somebody showed you the cans, Mr. Greer?

A. They did.

Q. Well, was you showed this can in a cabin or was the can shown to you there in the Club 69?

A. I was shown this can in the cabin. I was in the 69 Club when Deputy Marshal Bremer came into the club and said, “Come here. I want to show you something.” I went there into the cabin with him and he said, “There is a tobacco tin. Look in the bottom of it.” I did so. After that he told me—he took me out to the back of the western part of the cabin and he said, “Here are three more.”

Q. Didn't you say a little while ago that you

(Testimony of Power G. Greer.)

didn't find anything and you saw—they brought them in to you? A. No, sir.

Q. You didn't? A. No, sir.

Q. And who went with you when you went out and saw these cans outdoors?

A. Deputy Marshal Bremer. [37]

Q. And they were just empty tobacco cans laying out there, were they?

A. Practically empty, yes, sir.

Q. Looked like just empty tobacco cans?

A. Yes, sir.

Q. So they called you out to look at them?

A. Yes, sir.

Q. They called you into this room, this little house outside of the 69 Club to look at a can?

A. Yes, sir. That is where my attention was invited at first.

Q. And that is where you saw a colored boy and a colored girl? A. No, sir.

Q. It wasn't? A. No, sir.

Q. You didn't find a can where there was a colored boy and a colored girl?

A. No, sir; not in the same building.

Q. Oh! Was there anybody in this cabin when you went out there? A. No, sir.

Q. Do you know who occupied that cabin last?

A. No, sir.

Q. What? [38] A. No, sir.

Q. And you don't know anything about how those cans got outdoors there in the grass, do you?

(Testimony of Power G. Greer.)

A. No, sir.

Q. And then you say somebody showed you 16 cigarettes in the 69 Club?

A. Yes, sir. The cigarettes were shown to me before the tobacco cans were found.

Q. And who showed you the 16 cigarettes?

A. Deputy Marshal Barber.

Q. And those were the ones that you have identified as having sent outside, is that right?

A. Yes, sir.

Q. What did you send them outside for?

A. For chemical analysis.

Q. Why?

A. That happens to be a regulation that we have to obey, Mr. Hurley.

Q. I see. They don't trust you to know marihuana when you see it?

Mr. Hepp: I object to that, your Honor. I don't think these kind of comments are proper here at this trial.

The Court: Objection overruled. [39]

Q. (By Mr. Hurley): I say they don't trust you to identify marihuana?

A. No, sir, not when we have a chemist to do it.

Q. But you know it when you see it?

A. In my opinion, I do; yes, sir.

Q. Well, you testified it was marihuana.

A. I testified in my opinion it was marihuana.

Q. Oh! You did? A. Yes, sir.

Q. I thought you said it was marihuana ciga-

(Testimony of Power G. Greer.)

rettes right along, all the time. You never smoked any of them, did you? A. No, sir.

Q. Do you know what the effect of it is?

A. Yes, sir. I have seen the effect of it and I have read something about the effect of them.

Q. Do you know how much they sell for?

A. It varies.

Q. Well, do you know how much?

A. Yes, sir. In the States, they are probably—they probably sell for around a dollar a cigarette, although that varies in different localities. In Anchorage, they sell for around two dollars.

Q. Do they manufacture them?

A. In what way sir?

Q. Well, like manufacturing cigarettes.

A. By some company? [40]

Q. You know some people roll cigarettes and some people smoke them that are already rolled and I wondered if the marihuana cigarettes are used both ways.

A. Not that I know of, sir.

Q. Not that you know of? A. No, sir.

Q. What?

A. All that I have ever seen were hand made or hand rolled, just like those.

Q. Hand rolled? A. Yes, sir.

Q. Anybody can roll them that has marihuana and a piece of paper? A. I assume.

Q. What? A. I assume they could.

Q. And you say these are just in the same condition now as they were when you took them?

(Testimony of Power G. Greer.)

A. To the best of my knowledge, yes, sir. They are—I will have to qualify that to some extent. Some of the marihuana has spilled out of some of them and they are not as fully packed as they were.

Q. How long had you been here before you went out on that search?

A. Here in Fairbanks? [41]

Q. Yeah.

A. At that time, I either arrived in Fairbanks on Thursday or—Wednesday or Thursday of that week and this search was made on a Friday.

Q. On a Friday? A. Yes, sir.

Q. Did you come up to make the search?

A. No, sir.

Q. What did you come up for?

A. For other investigation pertaining to the United States Government.

Q. What kind of an investigation were you making?

Mr. Hepp: I object to that, your Honor. I don't think that it is proper here at this trial. That may be a confidential matter.

The Court: Objection sustained.

Q. (By Mr. Hurley): You just happened to be here when this search was made, is that right?

A. Yes, sir.

Q. Did you see the search warrant that you went out under, Mr. Greer? A. Yes, sir.

Q. Do you know who signed it?

A. The United States Commissioner signed it.

(Testimony of Power G. Greer.)

Q. Do you know who made the affidavit for the search warrant?

A. I am not sure that I do, sir.

Q. You're not sure? A. No, sir.

Q. Were you here when the affidavit was made?

A. I wasn't present when—— (Interrupted.)

Q. I say, were you here in town when the affidavit was made? A. I am not sure about that.

Q. You're not?

A. I don't know just when the affidavit was made, sir.

Q. All you saw was the search warrant?

A. Yes, sir.

Q. You didn't look at the affidavit?

Mr. Hepp: I object. He has covered that matter thoroughly, your Honor. He's just trying to drive home an immaterial point that I should have objected to right at the first.

The Court: Objection overruled.

Mr. Hurley: It is quite important.

Q. (By Mr. Hurley): You didn't look at the affidavit?

A. I don't recall that I did. I may have but if I did, I don't recall who it was that made the affidavit. [43]

Q. You don't remember that? A. No, sir.

Mr. Hurley: I think that's all.

Mr. Hepp: Just a minute.

(Testimony of Power G. Greer.)

Redirect Examination

By Mr. Hepp:

Q. I believe you testified, Mr. Greer, in response to Mr. Hurley's question that you didn't find—to use his words—you didn't find these three cans that were out in the brush or bushes or wherever you found them or wherever they were found.

A. I did not actually find them. I was in the—I was not the first person who found them.

Q. Where were the three cans when you first saw them?

A. They were lying in the grass right close together, oh, maybe a foot or two apart and within three or four feet of the west part of this small cabin.

Q. Did the immediate area around these cans appear to have been recently disturbed?

A. I couldn't hardly say. I don't remember.

Q. Oh, incidentally. I believe you testified that in your opinion this was marihuana?

A. Yes, sir.

Q. That was in response to Mr. Hurley's question, was it, [44] Mr. Greer? A. Yes, sir.

Q. Do you know what coffee is, Mr. Greer?

A. Yes, sir.

Q. Is that an opinion, too? A. Yes, sir.

Mr. Hepp: That's all.

Mr. Hurley: That's all.

(Mr. Greer left the witness stand.)

Mr. Hepp: Call Al Barber, please.

ALFRED BARBER,

called as a witness in behalf of the government, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name, please?

A. Alfred Barber.

Q. By whom are you employed?

A. United States Department of Justice.

Q. In what capacity, Mr.—— (Interrupted.)

A. As a United States Deputy Marshal.

Q. Where is your station?

A. Fourth Division.

Q. Where is your office, please?

A. Fairbanks. [45]

Q. How long have you been employed by the Department of Justice?

A. Since February 28, 1950.

Q. Do you know either of the defendants, Raymond Wright or Vernestine Wright?

A. I do.

Q. Do you know both of them?

A. Yes, I do.

Q. How long have you known Raymond Wright?

A. Since March, 1950—March the 3rd, 1950.

Q. And how long have you known Vernestine Wright?

A. Oh, I would say about April or May. I am not sure.

Q. Do you know where they were living at that time? A. Yes.

(Testimony of Alfred Barber.)

Q. Where were they living?

A. At the Cotton Club.

Q. Where is that?

A. That's on South—South Fairbanks.

Q. Did you know—did you have occasion to see either of them during the first of August or around the first of August of this year, Mr. Barber?

A. I did.

Q. Do you know where they were living then?

A. At the Club 69.

Q. Do you know how long they had been living at the Club [46] 69 at that time?

A. No, I don't.

Q. Had you seen them at the Club 69 previous to August, Mr. Barber?

A. Yes, I had.

Q. Did you have occasion to go—do you know the premises of the Club 69?

A. Yes, I do.

Q. Did you have occasion to go to these premises on the 4th of August of this year?

A. Yes.

Q. What was the circumstances attending your going to the Club 69 on that date?

A. Well, I received an Alaska Territorial search warrant from the United States Commissioner and approximately one thirty, I went to the Club 69 to execute it.

Q. What did this search warrant direct you to do, if anything?

A. Well, to search the premises for marihuana.

Q. Did you go to the premises?

A. Yes, I did.

(Testimony of Alfred Barber.)

Q. Is that the premises of—which premises did you go to, Mr. Barber?

A. The Club 69 including the silver colored trailer and the white house. [47]

Q. What did you do after you arrived there?

A. I read the search warrant to Vernestine Wright.

Q. What did you do then?

A. Then, Mr. Greer and myself went in the Club 69 proper and started to search the building.

Q. What did you find, if anything, there, Mr. Barber?

A. I found 16 cigarettes wrapped in brown paper, wrapped individually in brown paper, bound together by a rubber band behind a large chair on the floor, about two inches from the south wall of the building.

Q. You say they were behind a chair?

A. Yes, a large chair.

Q. Was that on—is that an upholstered chair?

A. Yes, an upholstered chair.

Q. Would you state where—no. First, state if you can, Mr. Barber, what the premises of the building of the Club 69 looks like in relation to partitions of rooms and things like that.

A. Well, when you walk in the building—
(Interrupted.)

Q. Where is the door? A. Yes, the door.

Q. Where? Where in the building in relation to north, west or south?

(Testimony of Alfred Barber.)

A. Well, standing in the entrance of the building looking straight ahead, it would be north and to the left would be [48] west. There were two rooms and to the east there was a shower—a room which was a shower and sink—and there was a sort of an arched partition there and they had a bar and refrigeraire and this large chair and there was also a sofa on the south wall.

Q. Where in relation to this shower and sink and bar that you have testified, was this chair that you have mentioned, Mr. Barber?

A. About two feet away from the bar.

Q. When did you first see these cigarettes wrapped in brown paper that you have testified concerning?

A. Well, I—I just got through searching the bar and around that area and I noticed a, oh, a package between the chair and the wall, the south wall. So, I said, “Well, boys, it looks like we’ve found something here,” and Deputy Marshal Urie and Arthur Bremer looked up and I pulled the chair over and there the cigarettes were laying. I picked up the cigarettes for identification and the witness—Martin Urie and Arthur Bremer witnessed the finding of the cigarettes and I called Howard Greer—Power Greer and he looked at the cigarettes and he says in his opinion it was marihuana.

Mr. Hurley: Well, we move that that be stricken out.

Mr. Hepp: That’s alright. May be stricken. [49]

The Court: May be stricken.

(Testimony of Alfred Barber.)

Q. (By Mr. Hepp): Do you know where Mrs. Wright was at the time when you first saw the cigarettes?

A. She was in the building. She was in the Club 69 proper at the time of the search.

Q. Was she in your sight at the time?

A. Oh, yes. She said—— (Interrupted.)

Mr. Hurley: Now, we object to that—— (Interrupted.)

Mr. Hepp: Just a minute.

Mr. Hurley: Just answer the questions.

Witness: I said she was in the building.

Mr. Hurley: I say, answer the questions, don't volunteer.

The Court: Wait until he asks another question.

Q. (By Mr. Hepp): Were these cigarettes that you stated you found in any kind of a container or wrapping or other device?

A. No. They were just wrapped individually in brown paper and the—bound together by a rubber band on the floor.

Q. You say you picked them up?

A. Yes, I did. [50]

Q. Had you ever seen those cigarettes before you saw them there on the floor? A. No.

Q. What did you do with the cigarettes after you picked them up?

A. I gave them to Power Greer who was the Treasury Agent.

Q. Did you do anything else with them?

(Testimony of Alfred Barber.)

A. Yes. I put my initials on the cigarettes, each and every one of the cigarettes, the 16.

Q. I show you government's identification number three, being this envelope and ask you to examine the contents of this envelope including these articles that have—that are—that appear here on this desk. (Pause.) State if you know what they are, please.

A. They look like the cigarettes that I picked up.

Q. Do you have any way of knowing whether — (Interrupted.)

A. Oh, yes. I marked each one of them. I would have to look at each cigarette.

Q. Well, examine a few of them.

A. (Pause.) Yes. Here is one with my initial on it.

Q. Have you seen that article before, Mr. Barber?

A. Yes, I have.

Q. Where did you see it first?

A. In the Club 69 proper.

Q. Is that one of the 16 articles—16 cigarettes that [51] you testified concerning?

A. Yes, it is. I put my initial on with indelible pencil, sir.

Q. Is that in the same condition as it was when you first saw it?

A. No.

Q. The one that you first—this other one that you said had your initial, is that in the same condition as when you first saw it?

A. No, it isn't.

Q. In what respects is it different?

(Testimony of Alfred Barber.)

A. Well, the edges are crimped up and everything. It looks like it has been opened. It looks like it has been crimped up and closed shut.

Q. Is it different in any other respect?

A. No.

Q. Will you examine one or two more of them?

A. Yeah.

Q. (Pause.) Are you able to state now whether or not you have seen those articles before? Other than the first one that you have testified, are you able to state whether or not you have seen those other ones before? A. Yes, I have.

Q. Where did you see them?

A. Behind the large chair on the floor of the Club 69 [52] proper.

Q. Did you say Mrs. Wright was—one of the defendants—also present at the time when you first saw these?

A. Yes. Mrs. Wright was present at the time.

Q. Just “yes” or “no,” did she make any statement concerning it one way or the other? Just “yes” or “no”? A. No.

Q. At any time while you were out at the premises of the Club 69 on this date, August the 4th, did you hear Mrs. Wright make any statement concerning this matter? A. Yes, I did.

Q. Who was present in the—when that statement was made, Mr. Barber?

A. Deputy Marshals Martin Urie and Arthur Bremer and the OSI agent, Mr. Siler. They were present but I don't know if they heard.

(Testimony of Alfred Barber.)

Q. And Mrs. Wright was there, of course?

A. Oh, yes.

Q. And you were there? A. Yes.

Q. What did she say in regard to this matter?

A. She says, "What's that?" And I says, "Don't you know?" And she says, "No, I don't." I said, "Do you smoke?" She says, "Yes, I do." I said, "Do you want to smoke one of these?" She says, "No, thanks." [53]

Mr. Hepp: Mr. Clerk, would you mark these papers respectively?

Clerk of the Court: Government's identification number four, government's identification number five, government's identification number six, government's identification number seven and government's identification number eight.

(A photograph, showing a chair, was received and marked government's identification number four.)

(A photograph, showing a chair, was received and marked government's identification number five.)

(A photograph, showing a chair and portion of a floor, was received and marked government's identification number six.)

(A photograph, showing a portion of a floor and an overturned chair, was received and marked government's identification number seven.)

(Testimony of Alfred Barber.)

(A photograph, showing a floor, was received and marked government's identification number eight.)

Q. (By Mr. Hepp): Mr. Barber, I show you government's identification number four which purports to be a picture of the interior of a building containing a chair and ask you to examine it, please? (Handed to witness.) State if you know what it is, please? [54]

A. Yes. This is the chair in the Club 69 proper that I found the cigarettes behind.

Q. Is that photograph—does that photograph faithfully represent the scene that it purports to as you viewed it when you were there?

A. Oh, yes, sir, it does. This chair is near the bar. The bar is over here. It is not in the picture, though.

Q. I show you government's identification number five purporting to be a photograph of the same building, a little different view. Would you state what it is?

A. Yes. This is the same chair that I found the cigarettes behind and this is the chair and next to this lamp would be the bar.

Q. Does that photograph faithfully represent the articles and subject matter that it purports to as you viewed it when you were there at the Club 69?

A. I would say so, yeah.

Q. And this chair that you are referring to, where is it again for the record?

(Testimony of Alfred Barber.)

A. Well, it is in the small enclosure—— (Interrupted.)

Q. In what premises, please?

A. In the Club 69 proper.

Q. I show you identification number six, purporting to be a photograph of an interior of a room. State if you know what that is, please? [55]

A. Yes. This is the chair and this is the south wall. That would be looking at it this way and that is the cigarettes there.

Q. Does that photograph faithfully represent the subject matter that it purports to as you viewed that subject matter when you were at the Club 69?

A. Yes, it is.

Q. I show you government's identification number seven, being a photograph of an interior of a room and ask you to examine it, please. (Pause.) Would you state, if you know, what it is?

A. Yes. This is the room and this is the chair that I pulled over when I said, "Well, it looks like we found some cigarettes." The cigarettes are laying here.

Q. Does that photograph faithfully represent the subject matter that it purports to as you viewed it when you were there? A. It does, yes.

Q. And I show you government's identification number eight, purporting—being a photograph and purporting to show the interior of a room. Would you state if you know what it is?

A. (Pause.) Yes. Those are the cigarettes laying against the wall there.

(Testimony of Alfred Barber.)

Q. Does that faithfully represent the subject matter that [56] it purports to as you viewed that subject matter yourself at the time you were at the Club 69? A. Yes.

Q. And all this occurred on this August 4th, did it, Mr. Barber?

A. Yes, August 4th about an hour after we were there.

Q. Of this year? A. Of this year, yes, sir.

Q. While you were at the premises of the Club 69, was your attention called to anything else, Mr. Barber? A. No, it wasn't.

Q. Did you see Mr. Wright around the premises at that time? A. No, I did not.

Q. Did Mrs. Wright make any statement to you concerning his whereabouts? A. Yes, she did.

Q. What did she say in that regard?

A. She said that he wasn't there then. She didn't know where he was.

Q. He wasn't there then?

A. Yes, at that time.

Q. Do you know who operates the Club 69—who was operating—excuse me. I withdraw that question. Do you know who was operating the Club 69 as of August 4th of 1950, Mr. [57] Barber?

A. Yes, I do.

Q. Who was operating it?

A. Vernestine Wright.

Q. Do you know who lived there at the time?

A. Vernestine Wright and Raymond Wright.

Q. Do you know who owns the Club 69?

(Testimony of Alfred Barber.)

A. Vernestine Wright.

Mr. Hurley: I move that be stricken out and ask that he answer the question instead of volunteering information. He asked him if he knew who owned it. He didn't say whether he knew or not.

The Court: Alright, objection sustained.

Q. (By Mr. Hepp): Just "yes" or "no," Mr. Barber, do you know who owns the Club 69?

A. Yes, I do.

Q. Who owns it?

Mr. Hurley: We object to that for the reason that no proper foundation has been laid. It is leading. Doesn't—— (Interrupted.)

Mr. Hepp: Your Honor—— (Interrupted.)

Mr. Hurley: No evidence that he knows, how he knows or anything else.

The Court: Objection sustained. [58]

Q. (By Mr. Hepp): Mr. Barber, had you ever seen marihuana before you saw these articles out in the Club 69? A. No, I have not.

Q. Did you ever smoke any? A. No, sir.

Mr. Hepp: That's all. You may question the witness.

Cross-Examination

Q. (By Mr. Hurley): How long have you been a Deputy Marshal?

A. Since February 28, 1950.

Q. Oh, I see. And you had a search warrant when you went out there? A. Yes, I did.

Q. And do you know who signed the affidavit upon which the search warrant was issued?

(Testimony of Alfred Barber.)

A. No, I do not.

Q. You don't? A. No.

Q. You don't know anything about that?

A. No.

Q. Well, do you know who did get the affidavit made or anything about that? [59]

A. What affidavit are you talking about?

Q. The affidavit for the search warrant. A search warrant can't be issued without an affidavit. Didn't you know that? A. Yes, I knew that.

Q. Well, who made the affidavit in this case?

A. Well, I signed a complaint.

Q. I say, who made the affidavit for the search warrant? A. I don't know, Mr. Hurley.

Q. You don't know? A. No, I don't.

Q. And no information in the Marshal's office about that? A. I—— (Interrupted.)

Mr. Hepp: I object to that, your Honor.

Witness (Continuing): ——don't know.

Q. (By Mr. Hurley): I say, none that you received? A. None that I received.

The Court: Objection sustained.

Q. (By Mr. Hurley): All you know is whether—what you were handed—a search warrant?

A. Yeah, that's right.

Q. And you say you went out to the 69 Club? About what time? A. About one-thirty. [60]

Q. About one-thirty? And now, what did you first do when you got out there?

A. I read the search warrant to Mrs. Wright.

Q. Where was she?

(Testimony of Alfred Barber.)

A. Outside the Club 69 proper.

Q. What was she doing out there? Outdoors, was she? A. That's right.

Q. Outdoors? A. That's right.

Q. She wasn't in the trailer?

A. No, she was outdoors.

Q. What was she doing?

A. Standing there.

Q. Yeah? And she wasn't in the trailer?

A. No, she wasn't.

Q. But she was standing outside?

A. That's right.

Q. And you read the search warrant to her?

A. That's right.

Q. And was Greer out there when she was standing out there? A. That's right.

Q. And she wasn't in the trailer at all then?

A. She may have been after, but when I read the search warrant to her—— (Interrupted.)

Q. When you first got out there, she was [61] outdoors? A. That's right.

Q. How far from the front door?

A. Oh, about two or three feet, I imagine.

Q. Standing right out there in front?

A. That's right.

Q. And she wasn't in the trailer cabin at all?

A. She may have gone after, but at that time, she wasn't.

Q. Who was with you when you come there?

A. There were Deputy Marshals Arthur Bremer, Martin Urie, Treasury Agent Power Greer, four

(Testimony of Alfred Barber.)

agents from the Office of Special Investigation attached to Ladd and Eilson Fields.

Q. Did you have any photographers?

A. Yes, I did.

Q. How many? A. One.

Q. Is that all? A. That's right.

Q. That made how many altogether?

A. Total of 8 men.

Q. I see. And did you make any investigation after you found these cigarettes on the floor to find out who dropped them there?

A. They were there.

Q. I say, did you make any investigation to find out who had dropped cigarettes on the floor? [62]

A. Yes, I did.

Q. You did? Did you find out who dropped them?

A. To my knowledge, nobody dropped them.

Q. They didn't? They just grew there.

A. No, they were laying there.

Q. And that is a natural place to keep marijuana cigarettes is it, on the floor?

A. I don't know.

Q. I see. And how many people had been in there that day? A. I don't know.

Q. You made no investigation to find out?

A. Yes, I made some.

Q. How many people had been in there that day before one o'clock from the time the place closed until one o'clock that afternoon? How many people had been in there?

(Testimony of Alfred Barber.)

Mr. Hepp: Your Honor, I don't—there is no evidence of when this place closed or anything else and I think this is—— (Interrupted.)

The Court: Objection sustained.

Q. (By Mr. Hurley): And who was there when you come there, in the place?

A. Mrs. Wright.

Q. Inside? I thought she was—you said she was outside?

A. You said when the cigarettes was picked up.

Q. I say, how many people were in the place when you come [63] in the place, in the building?

Mr. Hepp: I object to counsel taking that argumentative tone.

Mr. Hurley: Well, I want to find out—— (Interrupted.)

The Court: I will sustain the objection.

Q. (By Mr. Hurley): How many people were in the building—— (Interrupted.)

The Court: Tone is very objectionable.

Q. (By Mr. Hurley, continuing): ——when you got there? A. (Pause.) About four people.

Q. Was Mrs. Wright in the building or outside when you got there?

A. When I got there, Mrs. Wright was standing outside the building.

Q. And when you went in the building, was anybody in the building that wasn't outside when you got there? A. No.

Mr. Hepp: Your Honor, that question is—— (Interrupted.)

(Testimony of Alfred Barber.)

Q. (By Mr. Hurley): There was nobody in the building?

A. Yes, they were in the building, but they were not standing outside when I got there. [64]

Q. How many was there—— (Interrupted.)

A. What's that?

Q. How many people were there in the building when you went in? A. Around four.

Q. Who were they?

A. Opal Weldon—that's Mrs. Weldon; a colored soldier from Ladd Field and a white soldier from Ladd Field and another girl—colored girl—I don't know her name.

Q. How many colored people around in the building when you went in? A. Three.

Q. And a white soldier? A. Yes.

Q. Do you know where the soldier is?

A. Do I know where he is now?

Q. Yes. A. He's a soldier at Ladd Field.

Q. Out at Ladd Field now?

A. Yes, he is.

Q. Do you know where the colored soldier is?

A. He is at Ladd Field, I suppose.

Q. Do you know where the two women, colored women, are now that were in there?

A. No, I don't. [65]

Q. What were they doing when you went in there?

A. Well, when I first went in the building, Mr. Greer opened the door and I saw a nude colored

(Testimony of Alfred Barber.)

girl, Opal Weldon, go behind a curtain. That's—I saw her the first thing.

Q. What were the other people doing there?

A. They were sitting down.

Q. Whereabouts? A. In a chair—sofa.

Q. What chair?

A. One chair near the room.

Q. Three of them sitting down? A. Yes.

Q. I see. And one of them was where, that wasn't sitting down?

A. She was inside the room.

Q. Same room?

A. No, not the same room.

Q. What? A. No, not in the same room.

Q. What room was she in?

A. She was in the room to the left.

Q. And the two soldiers and the other girl was in the main room, is that right?

A. They came out—one colored soldier came out of the room and he sat down on the sofa. [66]

Q. Came out of what room?

A. The room that the girl was in.

Q. I see. And the other two, the white soldier and the other girl was sitting in the main room?

A. That's right.

Q. Was one of them sitting in the chair where these cigarettes had been dropped behind the chair?

A. I don't know.

Q. You don't know? A. No, I don't.

Q. So, you made no attempt to find out any-

(Testimony of Alfred Barber.)

thing about who dropped the cigarettes behind the chair?

A. I don't know if anybody dropped them or not.

Q. But I say, you made no attempt to find out how they got there? A. Yes, I asked them.

Q. Asked who? A. I asked the soldier.

Q. Oh! You did? A. Yes, I did.

Q. Oh, you did make an attempt to find out?

A. Yes, I did.

Mr. Hepp: I object to that kind of reasoning. This witness stated that he had investigated this matter in response to the first question. [67]

Mr. Hurley: Oh—the jury heard his testimony.

Mr. Hepp: Well, I am asking the court—
(Interrupted.)

Mr. Hurley: You can't change it, Mr. Hepp.

Mr. Hepp: Well, I am not trying to change it, Mr. Hurley.

The Court: Counsel will address the court. Don't address each other.

Mr. Hurley: That's all. You may—go on re-direct.

Re-direct Examination

By Mr. Hepp:

Q. What did these people say that you asked
—— (Interrupted.)

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial.

Mr. Hepp: Now your Honor, he has gone into

(Testimony of Alfred Barber.)

this matter. He wants to know all about this investigation out there and I can ask—— (Interrupted.)

The Court: I will sustain the objection.

Mr. Hepp: I believe that's all, Mr. Barber.

(Alfred Barber left the witness stand.) [68]

Mr. Hepp: Call Arthur Bremer.

ARTHUR S. BREMER,

called as a witness in behalf of the government,
being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name, please?

A. Arthur S. Bremer.

Q. By whom are you employed, Mr. Bremer?

A. United States Marshal.

Q. In what capacity?

A. A Deputy Marshal.

Q. How long have you been in that office, Mr. Bremer?

A. Since a year ago August.

Q. Do you know Raymond Wright, the defendant?

A. Yes.

Q. Do you know Vernestine Wright, the other defendant?

A. Yes, I do.

Q. How long have you known either of them?

A. Oh, I have known Ray Wright about, I guess three years.

Q. And Vernestine Wright?

A. I think I saw her the first time last summer.

Q. Are you familiar with the premises in town known as the Club 69? [69]

A. Yes.

(Testimony of Arthur S. Bremer.)

Q. Did you have occasion to go to the Club 69 on August 4th of this year? A. Yes.

Q. What was the occasion of your going there, Mr. Bremer?

A. I was helping Al Barber execute a search warrant.

Q. What did you do when you got there?

A. Well, I was assigned to search one particular white cabin, so I did so.

Q. You searched a white cabin? A. Yes.

Q. Where is that white cabin in relation to the Club 69, Mr. Bremer?

A. Well, it is, I guess you would say to the rear of the club; west anyway.

Q. What did you find, if anything, in this cabin?

A. The only thing I found of any interest to what I was looking for was a Velvet tobacco can.

Q. Where did you first see it?

A. The man who came in to help me search found it in the closet, laid it on the table and I picked it up and inspected it and it appeared to have—— (Interrupted.)

Mr. Hurley: We object to that, to what he thinks it had.

Mr. Hepp: He said it appeared to have. [70]
I think he can state what it appeared to have.

The Court: Describe the contents.

Witness: Well, it had a residue of, I guess you would say leaves and flowers. It is about the only way you could describe it, fragments of some kind of plant, dark green in color and was—there was

(Testimony of Arthur S. Bremer.)

kind of a—well, like creosote or tar or something like that in the can that these things adhered to.

Q. (By Mr. Hepp): Who was in the cabin at the time you were searching, Mr. Bremer?

A. A fellow name of Tweedy and Walter Siler.

Q. Do you know whether or not they are connected with any organization?

A. They are known as members of the O.S.I.

Q. What kind of an organization is that?

A. Well, that's the air force version of the Federal Bureau of Investigation, I guess.

Q. Did you search any other area while you were there, Mr. Bremer?

A. Yes, just the whole premises generally. After we found it in the white cabin and the other boys weren't through yet, so I wandered around the whole area there out in the grass and brush out behind. And I looked at that and there is a house under construction next door and I looked [71] that over.

Q. Did you find anything?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial, no proper foundation laid and has no connection with these defendants whatever.

Q. (By Mr. Hepp): Just say "yes" or "no."

The Court: Objection overruled.

Q. (By Mr. Hepp): Did you find anything?

A. Yes.

(Testimony of Arthur S. Bremer.)

Q. Where did you—at what location did you find anything, Mr. Bremer?

A. Well, just west of this white cabin is kind of a grassy vacant lot or some lumber and some brush and out there I saw another tobacco can and I went over, picked it up and it had the same—
(Interrupted.)

Mr. Hurley: I move that the answer be stricken out as incompetent, irrelevant and immaterial, no proper foundation laid, no connection shown whatever of any kind.

The Court: Motion denied.

Q. (By Mr. Hepp): Would you just finish your sentence?

A. It contained the same kind of leaves and flowers and [72] this peculiar creosote looking substance that was in the other can.

Q. Was your attention directed to anything else during your search, Mr. Bremer?

A. Well, with that to start with, I looked for more and I found two others within few feet of that one.

Q. How far would you say that this position was from the—any of the buildings that you stated—that constituted the Club 69?

A. Well, I would say about 10 feet from this white cabin. That is 15 feet west of it.

Q. Is there any fence or other boundary mark between this place where you found these cans and the Club 69? A. No.

(Testimony of Arthur S. Bremer.)

Q. Did you see either of the defendants at the time you were out at the Club 69 on this date?

A. Later on I saw Vernestine in the club when I went in there.

Q. Did you see Mr. Wright?

A. No, I didn't.

Q. What did you do after you observed this can in the cabin—that is—yes, in the cabin?

A. I put the can in my pocket.

Q. Did you—just “yes or no,” did you discuss the matter with anyone at that time? [73]

A. I showed it to at least one of the men that was with me, but I don't remember which one now.

Q. After you put the can in your pocket, what became of it then?

A. Well, later on when I went in the club, I handed it to Mr. Greer.

Q. What did you do, if anything, with the three cans that you found out in the brush?

A. The others I left right where I found them after I had looked at them and took Mr. Greer and showed him where each one was and let him pick them up so he would know where they were.

Q. Did he pick them up? A. Yes.

Q. Are you familiar with the substance—a substance that is known as marihuana?

A. I guess I am now. I don't know—— (Interrupted.)

Q. At the time when you went to the premises of the Club 69, were you familiar with it?

A. No.

(Testimony of Arthur S. Bremer.)

Q. Had you seen any before?

A. Not to my knowledge.

Mr. Hepp: That's all. You may question the witness. [74]

Cross-Examination

By Mr. Hurley:

Q. You say you went out with a search warrant?

A. Yes.

Q. And do you know who—did you see the affidavit that the search warrant was issued on?

A. No.

Q. You don't know who made it? A. No.

Q. You don't know where it was made?

A. No, I don't.

Q. And what time did you leave the office that day?

A. It was approximately one-thirty. I don't remember exactly.

Q. Who was with you?

A. Mr. Greer and Mr. Barber and Mr. Urie and Mr. Tweedy and Mr. Siler and there was one other O.S.I. man. I am not sure of his name.

Q. I see. And where did you leave from?

A. From the rear of the post office here.

Q. How many cars? A. Two.

Q. And who was in the car with you?

A. Let's see. Mr. Barber and Mr. Greer and Mr. Tweedy and Mr. Siler. [75]

Q. I see, and when you got out there, you all got out of the car, did you? A. Yes.

Q. And what did you do then?

(Testimony of Arthur S. Bremer.)

A. Well, I went to the white cabin that I was assigned to.

Q. I see. But did you walk up to the 69 Club?

A. I didn't, no.

Q. You didn't walk towards it at all?

A. No, I think I went right straight to the cabin.

Q. How far were you from the club, the 69 Club building, when you got out of the car?

A. Oh, in exact feet I couldn't say. I suppose
—— (Interrupted.)

Q. I don't want the exact feet. About how far?

A. Oh, about 20 feet.

Q. I see. And could you see the front door?

A. Yes.

Q. The front of the building?

A. Well, the door anyway.

Q. Well, the door is in the front part of the building, isn't it? You could see the front of the building? A. Yes.

Q. Did you see Mrs. Wright standing out there?

A. No, I didn't.

Q. She wasn't out there in the front of the building?

Mr. Hepp: I object to that. He just [76] said he didn't see her out there. I think counsel is putting words in this witness' mouth.

Mr. Hurley: I got a right to put them there.

Mr. Hepp: You haven't that right.

Q. (By Mr. Hurley): She wasn't out there in front? A. I don't think she was there.

Q. Where was she? A. That I don't know.

(Testimony of Arthur S. Bremer.)

Q. Where was she the first time you saw her?

A. Inside.

Q. Inside the—— (Interrupted.)

A. Club 69.

Q. The 69 Club? But you could see 20 feet right up to the door when you got out of the car, couldn't you?

A. I could if I looked in that direction. I was going to the white cabin.

Q. What direction is the white cabin from the car? A. It was slightly ahead.

Q. What? A. Slightly ahead of the car.

Q. And what direction was the front door of the 69 Club when you got out—— (Interrupted.)

A. Slightly to the rear. [77]

Q. Slightly to the rear. And how far was this cabin from the 69 Club?

A. Oh, it is pretty hard to remember exactly. I would say probably 30 feet if you took it on a direct line.

Q. Thirty feet?

A. There is a trailer between the two.

Q. Between the 69 Club and this cabin?

A. Yes.

Q. You could see the trailer and you could see the front of the 69 Club and you could see the cabin? A. Yes.

Q. When you got out of the car? A. Yes.

Q. All in plain sight? A. Certainly.

Q. I see. (To Court): It's just 12 o'clock, your Honor.

The Court: Yes.

Mr. Hurley: I have a few more questions to ask this witness.

The Court: We will adjourn to two o'clock, ladies and gentlemen of the jury.

(At this time, the Court duly admonished the jury and the trial of this case was recessed until two o'clock p.m.)

(At two o'clock p.m., the trial of [78] this cause was resumed.)

The Court: Any ex parte matters? Call the roll of the jury.

(Whereupon, the Clerk of the Court called the roll.)

Clerk of the Court: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case, 1509 criminal?

Mr. Hepp: Ready, your Honor.

Mr. Hurley: Ready, your Honor.

The Court: Very well. Call your witness.

(Mr. Arthur Bremer, having been previously sworn, resumed the stand.)

Mr. Hurley: I don't think there is anything further on cross-examination, your Honor.

The Court: Any rebuttal?

Mr. Hepp: I have no further questions.

The Court: That's all then.

(Mr. Arthur Bremer left the witness stand.)

Mr. Hepp: Call Martin Urie, please.

MARTIN URIE,
called as a witness in behalf of the government,
being first duly sworn, testified as [79] follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name for the jury, please? A. Martin J. Urie.

Q. By whom are you employed, Mr. Urie?

A. Department of Justice.

Q. And in what capacity?

A. Deputy Marshal.

Q. Where is your station?

A. Fairbanks, Alaska.

Q. How long have you been in the Department of Justice, Mr. Urie?

A. Since September 23, 1949?

Q. Has that been here in Fairbanks?

A. Yes.

Q. Do you know the defendant, Raymond Wright? A. Yes.

Q. Do you know the defendant, Vernestine Wright? A. Yes.

Q. How long have you known Raymond Wright?

A. Well, probably about a year and two months since I came to Fairbanks.

Q. And how long have you known Vernestine Wright? A. About the same time. [80]

Q. Are you familiar with the premises known as the Club 69 in Fairbanks area?

(Testimony of Martin Urie.)

A. Yes, I am.

Q. How often—have you ever been to those premises? A. Yes, I have.

Q. How often have you been out there, Mr. Urie?

A. I have been out there a number of times.

Q. Do you know who operates the Club?

A. Yes, I do.

Q. Who operates the Club 69?

A. Raymond Wright and Vernestine Wright.

Q. Have you ever seen them out there on the premises of the Club 69? A. Yes, I have.

Q. More than once? A. Yes.

Q. Did you have occasion to go to the Club 69 on August 4th of this year? A. I did.

Q. What was the occasion of your going to the Club 69, Mr. Urie?

A. To assist in the execution of a search warrant.

Q. I wonder if you would just raise your voice just a little bit so we can all hear every word. You say you went to assist in the execution of a search warrant? [81] A. Yes.

Q. Who did you go with if anyone else was with you?

A. There were eight of us including myself.

Q. Could you name them? A. Yes, I can.

Q. Would you raise your voice and name them, please, Mr. Urie?

A. Mr. Greer, a Treasury agent, and Alfred Barber, a Deputy United States Marshal; Art Bremer, another Deputy United States Marshal, and myself. and then there were four O.S.I. men from Ladd

(Testimony of Martin Urie.)

Field. It was Mr. Tweedy, Mr. Dennis and the other two I can't recall their names at the time.

Q. What did you do, Mr. Urie, when you arrived at the Club 69 premises?

A. When I arrived at the Club 69, I went to the silver trailer. That was my duty to walk over there and search the silver trailer after the search warrant was read.

Q. I am afraid we are missing some of your words. Could you raise your voice to a volume and hold it there, please? Would you state that last answer again?

A. My duty was to search the silver trailer after the search warrant was read and upon arriving at the Club 69, I went right to the silver trailer.

Q. What did you do there?

A. I knocked on the door and Vernestine Wright answered [82] from inside.

Q. What did you do then?

A. She came to the door and I told her to go over to the Club 69 building.

Q. What did she do then?

A. I believe she put a kimono on or a coat and went over to the Club 69?

Q. Was anyone there at the time?

A. Anyone where?

Q. Did you see anybody—I will withdraw that question. Whereabouts to the Club 69 did you see Vernestine go?

A. She went over to the entrance of the Club 69 on the porch.

(Testimony of Martin Urie.)

Q. Did you see anything occur there?

A. Yes. Deputy Barber read the search warrant to her on the porch.

Q. On the porch? A. On the porch.

Q. What did you do next?

A. After the search warrant was read, I went into the trailer and started searching.

Q. Did you find anything that you were searching for in the trailer? A. No, I didn't.

Q. Where did you go next? [83]

A. After we finished the trailer, I went to the Club 69 in the main part of the building.

Q. After you arrived in to the main portion of the building, was your attention attracted to anything?

A. Yes. I helped Deputy Barber search there for a while and then he turned over a chair and saw the marihuana cigarettes on the floor.

Q. Had he touched these cigarettes before you saw them? A. No, he didn't.

Q. Were you looking over in that direction at the time, Mr. Urie?

A. Yes, I was just as he turned the chair over and I looked over.

Q. What happened then, if anything?

A. Deputy Barber picked the cigarettes up and called for Mr. Greer?

Q. Mr. who? A. Greer.

Q. Uh-huh. Did Mr. Greer show up?

A. It was about, oh, I think probably half a minute before he came in from outside the building.

(Testimony of Martin Urie.)

Q. Was either of the two defendants in these premises, that is, in the Club proper premises during the time that you searched in there?

A. Yes. [84]

Q. Who was present?

A. Vernestine Wright.

Q. Just "yes" or "no," did you hear any conversation concerning these cigarettes following the finding in the presence of either of the defendants?

A. Yes.

Q. Who was present at that time?

A. Deputy Barber, Deputy Bremer and I believe two of the O.S.I. men and Vernestine Wright and there were a couple of her friends in there too. I don't recall their names at all.

Q. What was said, Mr. Urie?

A. I can't recall the statement Mr. Barber said. He said something to Vernestine Wright, but I can't recall it.

Q. Did she make any response to that statement?

A. Well, there was some answer she made but I can't recall the answer either.

Q. At any time when Mr. Greer was in the Club 69 premises proper, that is in the main building, and in the presence of either of the defendants when Mr. Greer was in there, did you hear any conversations with either of the defendants, Mr. Urie?

A. There was a conversation but I can't recall the exact wording of the conversation.

Q. Mr. Urie, I show you government's identification number four purporting to be a photo-

(Testimony of Martin Urie.)

graph (handed to witness) and [85] ask you to examine it, please. (Pause.) State if you know what it is?

A. That chair is a chair in the Club 69 room. I believe that's the one that the cigarettes were under.

Q. Does that photograph faithfully represent that scene as you viewed it at the time you were out there on August 4th, Mr. Urie? A. Yes.

Q. I show you government's identification number five (handed to witness), purporting to be a photograph and ask you to examine it, please. (Pause.) State if you know what it is.

A. That is the same chair in the Club 69.

Q. Does that photograph faithfully represent the subject matter that it purports to as you viewed it when you were out there on August 4th?

A. Yes.

Q. I show you government's identification number six (handed to witness) and ask you to examine it, please. (Pause.) State if you know what it is, please.

A. That is the chair in the Club 69. The cigarettes are showing underneath it about the same position after it was overturned.

Q. And you saw those cigarettes in that position before they were disturbed, is that right, Mr. [86] Urie? A. Yes, I did.

Q. Does that photograph faithfully represent the subject matter it purports to as you viewed that subject matter on August 4th? A. It does.

(Testimony of Martin Urie.)

Q. I show you government's identification number seven (handed to witness) and ask you to examine it, please. (Pause.) State if you know what it is.

A. Well, that's a chair overturned in the Club 69 and the cigarettes were close to the wall.

Q. Does that photograph faithfully represent the subject matter it purports to as you viewed that subject matter on August 8th of this year?

A. It does.

Q. I show you government's identification number 8 (handed to witness). (Pause.) State if you know what it is, please.

A. That is the marihuana cigarettes somewhere on the floor in the Club 69.

Q. Does that picture show that position of those cigarettes as you viewed the cigarettes when you were out there on August 8th? A. Yes.

Q. Does that photograph faithfully represent the subject matter of its contents that it purports to represent as you [87] viewed it on August 8th—4th of this year? A. It does.

Q. That is in the Club 69? A. Yes.

Q. Did you see Mr. Wright at the time when you were out making this search? A. I did not.

Q. Did Mrs. Wright, that is to say, did Verne-stine Wright say anything about his whereabouts while you were there, Mr. Urie?

A. Not to my knowledge she didn't.

Q. Do you know where Mr. Wright was living at the time, Mr. Urie?

A. Club 69, I believe.

(Testimony of Martin Urie.)

Mr. Hurley: I move that that be stricken out; not responsive to the question.

Mr. Hepp: Your Honor, he responded exactly.

Mr. Hurley: He didn't say he knew.

The Court: I will strike it. Just answer "yes" or "no."

Q. (By Mr. Hepp): Just answer "yes" or "no," Mr. Urie, do you know where Mr. Wright was living at the time when you were out there?

A. Yes. [88]

Q. Where was he living?

A. The premises of the Club 69 in the silver colored trailer out in the Club 69.

Q. In a number of feet, where is that in relation to the Club 69 premises proper where—where is this trailer that you are talking about?

A. It would be about 25 feet from the main building on the west side of the entrance of the club.

Q. And it was in that trailer that you first—that you saw Mrs. Wright? A. Yes.

Mr. Hepp: That's all. You may question the witness.

Cross-Examination

By Mr. Hurley:

Q. How long have you been a Deputy Marshal, Mr. Urie? A. Since September, 1949.

Q. And I believe you testified you had been out to the 69 Club a good many times on numerous occasions prior to the 4th of August of this year, is that right? A. That's right.

(Testimony of Martin Urie.)

Q. What were you doing out there?

A. One time before we had a search warrant to serve out there. [89]

Q. Just once? One search warrant? Now, what other occasions were you out there on?

A. I was out there on quite numerous occasions. Couple of times to serve papers on Mr. Wright, civil papers.

Q. You served civil papers on him in how many occasions?

A. Few times.

Q. How many?

A. A few times.

Q. Well, what do you mean by "few"? Once or twice?

A. Probably twice.

Q. How many other times had you been out there?

A. Oh, I have been out there probably few more times, couple of times.

Q. What for?

A. One time we were making a raid on the premises.

Q. What?

A. We were making a raid on the premises.

Q. I see. Any other occasions you have been out there?

A. Yes.

Q. When?

A. I was out there assisting military police; the M.P.'s couple of times to locate a couple of their men.

Q. What?

A. To locate a couple of their men.

(Testimony of Martin Urie.)

Q. You went out there looking for them? [90]

A. Yes.

Q. Is that all you were ever out there?

A. I believe that's all.

Q. And you said very positively that Mrs.—that Mr. Wright was living there on the 4th of August. How do you know?

A. About every time I was out there, Mr. Wright was there.

Q. How many times were you there? What do you mean?

A. Probably six or seven times.

Q. Was he out there on the 4th of August?

A. No, he wasn't.

Q. Did you make any inquiry as to what he was doing at that time? A. Yes.

Q. What? A. I didn't!

Q. Well, didn't you know he was building a house?

A. I heard that he was building a house, yes.

Q. Yes. And he wasn't around there when you went out there on the 4th of August and hadn't been there for some time, isn't that what you found out? A. No.

Q. It wasn't? You didn't inquire then?

A. I never inquired, no.

Q. What kind of a raid did you say you [91] made?

Mr. Hepp: Now, your Honor, I don't know that—I think that is a confusing issue. Counsel is entitled to ask him on what occasion he went out

(Testimony of Martin Urie.)

there but then to go into the details of another matter—— (Interrupted.)

Mr. Hurley: He said he made a raid out there.

Mr. Hepp: It is just a confusing collateral issue, your Honor. It may have its place in another—— (Interrupted.)

The Court: State your objection.

Mr. Hurley: I will withdraw it.

The Court: Do you have an objection? Very well, he withdraws it.

Mr. Hurley: I withdraw it. I don't care.

Q. (By Mr. Hurley): Do you know what Mr. Wright was doing on the 4th of August, 1950?

A. No.

Q. Do you know what he was doing on the 3rd?

A. No.

Q. Do you know what he was doing on the 2nd?

A. No.

Q. Do you know where he was?

A. I imagine—— (Interrupted.) [92]

Q. I am not asking you what you imagine. I am asking if you know. A. I don't know.

Q. No? That's what I thought you knew. Do you know—you don't know where he was?

A. No.

Q. And you made no investigation to find out?

A. Well, after Vernestine was brought in, Raymond Wright came in the building.

Q. What?

A. After Vernestine Wright was brought in

(Testimony of Martin Urie.)

from the Club 69 on August 4th, Mr. Wright came in the Federal Building.

Q. Oh, that was—that would show where he was on the 2nd and 3rd, would it?

A. It shows where he was on the 4th.

Q. It would? A. In Fairbanks.

Q. When he came in to the Federal Building, that would show where he was on the 4th of August when you were out there?

Mr. Hepp: I object to that, your Honor. That wasn't part of his question.

The Court: Well, state your objection. What is it? What's the ground?

Mr. Hepp: I object to the question as [93] indefinite.

Mr. Hurley: It wasn't indefinite.

The Court: I will sustain the objection.

Q. (By Mr. Hurley): You say he came in to the Federal Building when?

A. On August 4th.

Q. And would that give any indication to you where he was on the 2nd or 3rd of August?

A. No.

Q. Well, where was he then, do you know?

A. I don't know.

Q. You don't know whether he was living at the 69 Club or not, do you? A. No.

Q. So, you didn't know where he was living?

A. Well, I believe he was living at the Club 69.

Q. I understand you believe it, yes, but you don't know, do you?

(Testimony of Martin Urie.)

A. I seen him out there a number of times.

Q. Yes, but you don't know where he was living at that time, do you?

A. On the 2nd and 3rd, I don't know.

Q. No! That's what I thought. You say when you went out there—where did you leave from?

A. From the Federal Building. [94]

Q. And how many cars left? A. Two.

Q. And which car were you in, the first car or the second car? A. I was in the first car.

Q. Who was with you?

A. There were three other fellows. They were three O.S.I. men.

Q. What? A. Three O.S.I. men.

Q. With you? You were—that was the first car that went out? A. Yes.

Q. And who was with you?

A. Three O.S.I. men.

Q. I see. And who was in the second car?

A. Deputy Barber, Deputy Bremer, Mr. Greer and another O.S.I. fellow.

Q. And how far behind you were they?

A. They were right behind me.

Q. And when you got out there, where did you stop your car? A. In front of the Club 69.

Q. And where did the people behind you, the Marshals behind you, stop their car? [95]

A. I believe alongside of me.

Q. Alongside of you? I see. And had you got out of the car before they stopped or were you just getting out of the car? A. I can't recall that.

(Testimony of Martin Urie.)

Q. You don't remember? A. No, sir.

Q. You don't know whether you was out of the car when they stopped or whether you all got out at the same time or whether they got out first or whether you got out first, is that right?

A. I believe I was the one—first ones out because I was over at the—— (Interrupted.)

Q. What?

A. I believe I was one of the first ones out.

Q. Who did you see after you got out first outside of the cars?

A. Oh, I went right to the silver trailer.

Q. I know. But who did you see first? I didn't ask you what you did. I asked you who you saw among the other people that went out there. After you got out of the car, who did you see first outside of the car? A. I don't follow your statement.

Q. What?

A. I don't follow your question, Mr. [96] Hurley.

Q. You don't what?

A. I don't follow your question.

Q. I say, when you got out of the car, who was the first man that went out with you in either car that you saw outside of the car after you got out?

A. Bill Dennis was the O.S.I. man and I went right to the silver trailer.

Q. I asked who you saw get out of the car first after you got out?

A. After I got out? Just like I stated, I went right to the silver trailer with Dennis.

(Testimony of Martin Urie.)

Q. But you didn't see anybody else get out of the car? Did you close your eyes?

A. The other fellows were getting out of the cars, yes.

Q. Who did you see first?

A. I can't recall who I saw—— (Interrupted.)

Q. Can you remember anybody you saw get out of either one of the cars?

A. Well, all the fellows got out of the cars.

Q. You saw them get out? A. Yes.

Q. And then you went over where?

A. To the silver trailer.

Q. I see. And what did the other guys do.

A. They went to their station. [97]

Q. What? A. They went to their stations.

Q. Where were their stations?

A. Well, mine was the silver trailer.

Q. I didn't ask you what your station was. I say where did they go?

A. Where they were assigned to go.

Q. What?

A. Where they were assigned to go.

Q. Well, where?

A. I can't recall just which ones went to which position, Mr. Hurley.

Q. I don't know! Where did they go?

Mr. Hepp: Your Honor, I am going to object to the attitude that counsel is taking.

The Court: Objection sustained.

Mr. Hurley: I am having an awful time trying to get an answer to the questions, your Honor.

(Testimony of Martin Urie.)

The Court: I think he has told you. I think he has answered it already.

Q. (By Mr. Hurley): Where did they go?

A. They went to their stations.

Q. Well, I don't know what you mean by "stations." When they got out of the cars, I want to know where they went. [98] "Stations" don't mean anything to me or the jury, either one.

A. Well, I believe—I can't remember which O.S.I.— (Interrupted.)

Q. I don't care whether you remember—— (Interrupted.)

Mr. Hepp: I object to Mr. Hurley objecting when this witness tries to answer his questions, your Honor.

The Court: Alright, objection sustained.

Mr. Hurley: Alright, then. If he has to name them, let him name them.

Q. (By Mr. Hurley): Go ahead.

A. I believe there was four positions, four stations. One was the silver trailer where 2 of us went to. Then another was the main building, the Club 69, and the other the white house.

Q. What I want to know is where these men went that got out of the cars. I don't care anything about stations. I just want to know where they went.

A. Well, they went where they were assigned to go. I mean—— (Interrupted.)

Q. I understand that. I understand that. But I want to know where they went.

(Testimony of Martin Urie.)

Mr. Hepp: Your Honor, I am going to object to this. There's—— (Interrupted.) [99]

Witness: I don't—— (Interrupted.)

Mr. Hepp: Just a minute, Mr. Urie. There is no foundation laid to show that this witness knows. He can testify where he went but there is nothing to show he knows where these men went. I am going to object to this until the proper foundation—— (Interrupted.)

The Court: Objection sustained.

Q. (By Mr. Hurley): Do you know where these men went that got out of the cars?

A. No, I don't. I know where they probably were supposed to go.

Q. But you don't know where they went?

A. No.

Q. You didn't see them go? A. No.

Q. Now, where was the car that you got out of with respect to the front door of the 69 Club?

A. It was probably 20 feet south of the building.

Q. And was that opposite, right opposite, the front door of the club?

A. I couldn't state if it was right opposite the front door but it was—— (Interrupted.)

Q. Could you see the front door of the club from your car where you stopped? [100]

A. No.

Q. Why couldn't you?

A. The front door is facing west on the main building.

(Testimony of Martin Urie.)

Q. What?

A. The front door is facing west.

Q. Yeah.

A. And I couldn't see the front door.

Q. Well, why not?

A. I just couldn't see, I guess. The car wasn't parked far away west to see it.

Q. Where was the car parked with respect to the building? A. At about 20 feet south of it.

Q. Where with respect to the building? South, you say? You say it was south?

A. It was south of the building, yes.

Q. 20 feet south. That was your car?

A. Yes.

Q. And where was the other car parked with respect to the building?

A. I believe probably about 29 or 30 feet south of the building.

Q. What?

A. About 29 or 30 feet south of the building.

Q. And it was south of your car?

A. Yes. [101]

Q. And what direction does the building face?

A. You mean what direction— (Interrupted.)

Q. The front door of the building, what direction does the front door of the building face of the 69 Club? A. It faces west.

Q. It faces west?

A. But to enter the building—the door faces west.

(Testimony of Martin Urie.)

Q. Is it a square building or what kind of a shaped building is it?

A. It is a square building but there is a porch that—— (Interrupted)

Q. It has a porch on the front of the building, over the front door?

A. No. There is an open porch.

Q. Open porch? A. Yeah.

Q. Well, it has a porch then on the front door of the building? A. It has a platform porch.

Q. At the front door? A. Yeah.

Q. And you say the front door faces west?

A. Yes.

Q. And what direction was your car from the building when you stopped? [102]

A. It was facing west.

Q. I didn't ask you where it faced. I asked what direction was your car from the building when you stopped it? A. South.

Q. I see. That is, you went past the building where you stopped your car? A. No.

Q. Well, you drove from north to south when you went south—when you went out there, didn't you? A. Yes.

Q. And you went past the building, didn't you?

A. Going south, yes.

Q. I say you went past the building before you stopped your car? A. Yes.

Q. Why did you drive past the building?

A. Well, there is a driveway, Mr. Hurley, when

(Testimony of Martin Urie.)

you go south and you have to turn west and then you park in front of the building.

Q. In front of the front part of the building?

A. Yes.

Q. So, you parked in the front of the building?

A. Yes.

Q. And how far was the front door when you parked in front of the building from your [103] car? A. Approximately 20 feet.

Q. And what direction was your car from the front door of the building? A. South.

Q. South? Well, does the building face south, the front door face south?

A. The entrance to the building faces west.

Q. And were you on the west side of the building when you stopped your car? A. No.

Q. But you could see the front door, couldn't you? A. Couldn't.

Q. Why?

A. Because I wasn't far enough west to see the front door.

Q. So you went—you drove by the building over to the south side of the building, is that it?

Mr. Hepp: Now, I am going to object to that— (Interrupted.)

Mr. Hurley: Well, I can't— (Interrupted.)

Mr. Hepp: Just a minute, Mr. Hurley. Let me finish my objection. I object unless counsel specifies what part of the building he went past. You could go on around four sides of the building and

(Testimony of Martin Urie.)

I suppose half way it would be passing the building. Counsel has not made his questions clear. [104]

Mr. Hurley: I have done my best, your Honor. I'll try it again.

Q. (By Mr. Hurley): What part of the building did you pass when you went out there in the car? A. We passed the east side.

Q. The east side? A. Yes.

Q. And then where did you go after you passed the east side of the building? Where did you go then?

A. Then you make a right hand turn.

Q. And then what part of the building did you pass?

A. It would be the south side of the building.

Q. South side of the building? A. Yes.

Q. You passed the south side?

A. I didn't pass the south side. I parked on the south side of the building.

Q. That is, you drove by on the east side, then you crossed the south side of the building and you parked your car, is that right?

A. Yes. After you make a right hand turn—
(Interrupted.)

Q. What is that?

A. After you make a right hand turn.

Q. I don't care what kind of a turn you make. I want [105] to know where you parked. You say you passed first the east side of the building in your car and then you drove across the south side of the building and then you stopped your car?

(Testimony of Martin Urie.)

A. When you drive out south Cushman extension, you are heading south and it would be—then you pass one wall of the building. You turn right, then you park on the south side of the building.

Q. I say, but did you drive by the east side of the building and then turn across the south side of the building? A. Yes.

Q. I see. And did you drive along the west side before you stopped your car? A. No.

Q. What? A. No.

Q. How far past the south side of the building were you when you stopped your car?

A. Approximately half way between the building.

Q. What?

A. About half way between the building.

Q. I say how far past the 69 Club, the south side—about how far past the south side of the 69 Club after you drove across the east side and crossed the south side, about how far did you drive beyond the south side of the [106] building before you stopped your car?

A. I didn't drive all the way past the south side of the building.

Q. You didn't pass the south side of the building? A. I parked south of the building.

Q. I say, you didn't drive across the south side of the building? A. No.

Q. You drove past the east side and part of the way across the south side, is that right?

A. Mr. Hurley, I get confused on the directions.

(Testimony of Martin Urie.)

Q. Yeah? Which side did you pass first when you drove out there?

A. We were heading south out on south Cushman, the extension of south Cushman on the right hand side of the road. There is a wall and that would be the east side looking north in the opposite direction we were going out. That would be the east side. That's what I referred to. I said we passed the east side and turned and then I parked on the south side of the building.

Q. Were you on the east side or the west side of the building facing north when you passed the building first?

Mr. Hepp: I am going to object, your Honor, to that. There is no such thing as east side or west side facing north. [107]

The Court: I think he has told you over and over, Mr. Hurley. I will sustain the objection. Get to some other subject.

Q. (By Mr. Hurley): Which side of the house is the door on, the entrance to the 69 Club?

A. There is a porch and the porch door is facing the west—is facing west.

Q. Facing west?

A. Yes. That would be on the left side of the building.

Q. What do you mean by the "left hand side of the building?"

A. That when you look—we were parked south of the building and the porch entrance is—on the—facing the west.

(Testimony of Martin Urie.)

Q. Which way were you facing when you were thinking about your left hand? A. Pardon?

Q. Which direction were you facing when you were thinking about your left hand?

A. North.

Q. North? I see. I understand that a little better now! And you got out of the car with three men?

A. Yes.

Q. Who drove the car?

A. I drove the car. [108]

Q. I see. And you went over to the wanigan near the 69 Club, did you? A. No.

Q. Where did you go?

A. I went to the trailer.

Q. Well, whatever you call it—a trailer. And what did you do when you got there?

A. I knocked on the door.

Q. And what happened?

A. Vernestine Wright answered.

Q. And had she been in bed asleep?

A. I believe she might have been laying down, yes.

Q. What?

A. I don't know if she was asleep or not.

Q. She had been in bed, hadn't she?

A. I believe so, yes.

Q. And then she got up? A. Yes.

Q. And dressed, did she?

A. I think she put a kimono on or a coat.

Q. What did she have on when she came out?

A. I believe it was a blue kimono.

(Testimony of Martin Urie.)

Q. And how long did it take her to get out of the bed and get ready to come out?

Mr. Hepp: Your Honor, I don't believe [109] there's any evidence that she was in bed. He merely says he believes she may have been laying down but I don't think that's—— (Interrupted.)

Mr. Hurley: Well then, I will reframe the question, your Honor.

Q. (By Mr. Hurley): How long did it take her to get ready after you thought she had been laying down?

A. Probably little less than a minute.

Q. What?

A. Probably little less than a minute.

Q. Less than a minute. What did you tell her?

A. I told her to go over to the Club 69.

Q. What?

A. I told her to go to the Club 69.

Q. And what did she do?

A. She went over to the Club 69.

Q. Were all these men around there when you went over there? A. No.

Q. What? A. No.

Q. Who took her over?

A. She went over by herself.

Q. Nobody went with her? [110]

A. No, because Deputy Barber was waiting for her over there.

Q. Over where? A. The Club 69.

Q. Oh! He was waiting for her to come over?

A. Yes.

(Testimony of Martin Urie.)

Q. Where was he?

A. He was on the porch in the Club 69.

Q. Did he tell you to go over and bring her over?

A. No.

Q. Who told you to bring her over?

A. No one.

Q. You just told her to beat it over to the Club 69?

A. I told her to go over to the Club 69.

Q. I say, you was the one that told her?

A. Yes.

Q. And she went over there from the—whatever you call this—what was the name you gave to it?

A. Silver trailer.

Q. Silver trailer? And she went over there from there under your direction?

A. I told her to go over there, yes.

Q. And did you walk over there?

A. No, I didn't.

Q. Where did you go?

A. I stayed by the trailer. [111]

Q. Did you go inside? A. I did.

Q. Did you search it? A. Yes.

Q. Thoroughly? A. Yes.

Q. Every place? A. Yes.

Q. So, you don't know what happened after that as far as she was concerned after you ordered her over to the Club 69, do you?

A. I saw Deputy Barber read the search warrant.

Q. Oh, you saw him? A. Yes.

(Testimony of Martin Urie.)

Q. And you know who made the affidavit to that search warrant? A. No, I don't.

Q. You don't? A. No.

Q. Well, all you know is that Barber had one?

A. Yes.

Q. Well, she wasn't standing outside around the roadhouse when you fellows got out of the car, was she? A. No.

Q. She was in this silver—what is it, the [112] silver trailer, is that right, when you boys got out of the car? A. Yes.

Q. And she didn't come out and went—you went over there and told her to get dressed and come over? A. That's right.

Mr. Hurley: That's all.

Mr. Hepp: That's all.

(Mr. Martin Urie left the witness stand.)

Mr. Hepp: Call Hugo Ringstrom, please.

HUGO RINGSTROM

called as a witness in behalf of the government, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name, please?

A. Hugo Ringstrom, R-i-n-g-s-t-r-o-m.

Q. Where do you live, Mr. Ringstrom?

A. Seattle, Washington.

Q. By whom are you employed?

(Testimony of Hugo Ringstrom.)

A. By the Alcohol Tax Unit of the Federal Government.

Q. And in what capacity?

A. As a chemist.

Q. How long have you worked for the government, Mr. Ringstrom? [113]

A. I worked for the government since July, 1922.

Q. Have you ever been educated in the field of chemistry, Mr. Ringstrom? A. Yes, sir.

Q. Where did you receive your education?

A. At the School of Chemistry of the University of Minnesota.

Q. Did you—do you hold any degrees in chemistry, Mr. Ringstrom? A. Yes, sir.

Q. What degrees do you hold?

A. Bachelor of Science in chemistry, and Master of Arts in chemistry.

Q. When did you receive your Bachelor of Science degree in chemistry? A. 1915.

Q. And when did you receive your Master's degree in chemistry? A. 1917.

Q. Was that in the same institution that you mentioned, Mr. Ringstrom? A. Yes, sir.

Q. Do you have any duties concerning narcotics, Mr. Ringstrom? A. Yes, sir. [114]

Q. What are your duties concerning that?

A. To analyze narcotics for the Bureau of Narcotics and for other government agencies and state agencies.

(Testimony of Hugo Ringstrom.)

Q. Have you had any experience in the field of analysis of narcotics? A. Yes, sir.

Q. Approximately how many analyses have you made of narcotics, if you know?

A. It is very difficult to say. I can only make a rough estimate.

Q. Would you state that estimate?

A. In opium alkaloids probably three, four thousand, and in marihuana, around probably,—around 1,500.

Q. Mr. Ringstrom, I show you government's identification number one and ask you to examine it, please (handed to witness). (Pause.) State if you know what it is? A. Yes, I do.

Q. What is it, please?

A. That is the registered envelope that I received on August the 8th, 1950, from Treasury Agent Greer.

Q. And how was it delivered to you?

A. By registered mail.

Q. And where has it been since it was delivered to you?

A. In my possession until this morning.

Q. What did you do with it then? [115]

A. I gave it to you.

Q. Where did you give it to me?

A. As we entered the court room.

Q. I show you government's identification number two (handed to witness) and ask you to examine it and its contents. (Pause.) Please state, if you know, Mr. Ringstrom, what it is, please?

(Testimony of Hugo Ringstrom.)

A. I do.

Q. What is it? A. Marihuana.

Q. What is the nature of the container that it is in?

A. It is a sealed envelope that the Bureau of Narcotics uses for containing exhibits.

Q. I hand you—have you ever seen it before?

A. Yes, sir.

Q. Where did you first see it?

A. In the Alcohol Tax Unit laboratory in Seattle, Washington.

Q. And in what form was it when you first saw it?

A. It was sealed and inside the registered envelope 2190.

Q. What did that envelope contain, if anything, at the time when you first saw it, Mr. Ringstrom, and examined it?

A. It contained the marihuana, loose in the envelope here, and—— (Interrupted.)

Q. What quantity of marihuana? [116]

A. Seven grains.

Q. You analyzed that contents and found it to be marihuana, Mr. Ringstrom? A. Yes, sir.

Q. I show you government's identification number three (handed to witness) and ask you to examine it and the contents. (Pause.) State if you know what it is, please? A. I do.

Q. What is that article?

A. It is marihuana.

Q. What kind of container is it in?

(Testimony of Hugo Ringstrom.)

A. It is a block sealed envelope that the Bureau of Narcotics uses for narcotic exhibits.

Q. Have you ever seen that envelope before?

A. Yes, sir.

Q. Where did you first see it?

A. In the Alcohol Tax Unit laboratory in Seattle, Washington.

Q. And in what manner did you find it?

A. It was sealed and inside the registered envelope 2190.

Q. Did you examine the contents of that envelope? A. Yes, sir.

Q. And did you find anything in the envelope?

A. 16 cigarettes.

Q. Did you examine those cigarettes for their content? [117] A. Yes, sir.

Q. What is their content?

A. Marihuana.

Q. Referring to the second identification that you have examined, what did you do with that following your examination?

A. It was loose in the inside of the envelope because I took a little piece of paper and folded it into a bindle and put the marihuana inside the bindle so that they wouldn't be lost.

Q. Where has that been since that time?

A. In my possession.

Q. When did you surrender possession of that?

A. This morning.

Q. And where were you then?

A. Entering the court room.

(Testimony of Hugo Ringstrom.)

Q. To whom did you give it? A. Yourself.

Q. And in the iden—government's identification number three, which you have examined, state, if you know, where that has been since you first saw it? A. I do.

Q. Where has that been?

A. In my possession.

Q. When, if at all, did you surrender that possession, Mr. Ringstrom? [118]

A. This morning.

Q. And where did you surrender the possession?

A. Entering the court room.

Q. And to whom did you give it?

A. To yourself.

Q. Are those—is government's identification number 2 in the same condition as it was when you first saw it?

A. I have taken out and used a small quantity. Outside of that, it is.

Q. And as to the identification number three, being those 16 cigarettes, would you state, Mr. Ringstrom, whether or not they are in the same condition as when you first saw them?

A. They are except for a small quantity that I have taken out each one of the 16 cigarettes.

Q. You took this quantity out to make your analysis with, is that right? A. Yes, sir.

Q. And they are in the same condition except for that slight removal? A. Yes, sir.

Q. Is marihuana a narcotic drug, Mr. Ringstrom? A. Yes, sir.

(Testimony of Hugo Ringstrom.)

Q. Is it known by any other name, Mr. Ringstrom?
A. Yes, sir. [119]

Q. What other name is it known by?

A. Scientifically, it is known as *cannabis indica* and *cannabis sativa*. And in the underworld, it is known as sticks, reefers and weed among perhaps others that I don't know or can think of.

Mr. Hepp: That's all; you may question the witness.

Cross-Examination

By Mr. Benton:

Q. Mr. Ringstrom, when you made the analysis of the—what you have stated was marihuana, did you notice any tarry or creosote substances mixed in it that applies to the substance that had been or alleged to be the contents of some tobacco cans?

A. I did not notice any.

Q. Is creosote or tar any part of the contents of marihuana?
A. No, sir.

Q. And when you made the examination of the substance, if there had been any tarry substance or creosote, you would have noticed it, wouldn't you?

A. I think so.

Q. You made a complete test that would show that up?

A. I made a test for marihuana and corresponded. I mean, [120] this material gave all the tests for marihuana.

Q. And you didn't find any creosote or tar?

A. No, sir.

(Testimony of Hugo Ringstrom.)

Mr. Benton: That's all.

Redirect Examination

By Mr. Hepp:

Q. Mr. Ringstrom, I would like to ask you a hypothetical question. If marihuana had been stored in a can into which there may have been some other substance, would you necessarily have found that other substance present in the marihuana?

A. A tarry substance, no, because that is a solid at ordinary temperatures.

Mr. Hepp: That's all.

The Court: Any further cross-examination?

Mr. Hurley: No, that's all, your Honor.

The Court: That's all, then.

(Mr. Hugo Ringstrom left the witness stand.)

The Court: We will take a ten-minute recess.

(At this time, a short recess was taken.)

Clerk of the Court: Court is reconvened. [121]

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court called the roll.)

Clerk of the Court: They are all present, your Honor.

The Court: Counsel ready to proceed?

Mr. Hepp: Ready.

Mr. Hurley: We are ready, your Honor.

The Court: Call your next witness.

Mr. Hepp: Mr. Tweedy.

GEORGE M. TWEEDY

called as a witness in behalf of the government,
being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name to the jury,
please? A. George M. Tweedy.

Q. By whom are you employed?

A. By the Air Force.

Q. And in what capacity?

A. Special agent, Office of Special Investigation.

Q. How long have you been around Fairbanks,
Mr. Tweedy? A. Year and nine months.

Q. One year and nine months? And where is
your station [122] of duty?

A. At Ladd Air Force Base.

Q. Do you know Mr. Power Greer?

A. I know Mr. Greer, yes, sir.

Q. Do you know Alfred Barber?

A. I do, sir.

Q. Martin Urie? A. I do, sir.

Q. Arthur Bremer? A. I do, sir.

Q. Do you know Raymond Wright, the defend-
ant here? A. I do not, sir.

Q. Do you know who he is?

A. I know of him.

Q. Do you know Vernestine Wright?

A. I do, sir.

(Testimony of George M. Tweedy.)

Q. Are you familiar with the premises of the Club 69, Mr. Tweedy? A. I am, sir.

Q. Did you have occasion to go to the Club 69 on August 4th of this year? A. Yes, sir.

Q. What was the circumstances attending your going to the Club 69 premises then?

A. Upon request of the United States Marshal to assist [123] them.

Q. Assist them in what manner?

A. Assist them in form of an investigation.

Q. Do you have any special skill, Mr. Tweedy, that you employ in the course of your work?

A. Photographer, sir.

Q. How many years have you been a photographer? A. Little over 14 years, sir.

Q. Did you take any pictures out or around the premises of the Club 69, Mr. Tweedy, on this date that you stated that you went out there?

A. Yes, sir.

Q. I show you government's identification number four (handed to witness) and ask you to examine it and state, if you know, what it is please.

A. Yes, sir; a chair that was located in the Club 69.

Q. Does that photograph faithfully represent the subject matter which it purports to represent?

A. Yes, sir.

Q. Did you take that photograph?

A. I did, sir.

Q. Did you process the negative upon which the exposure was made? A. I did, sir.

(Testimony of George M. Tweedy.)

Q. Is that negative—did you, at any time, retouch that [124] negative? A. No, sir.

Q. Did you make that print?

A. I did, sir.

Q. Is that print made from an unretouched negative? A. That is, sir.

Q. The negative is in the same condition as when it was exposed? A. That's right, sir.

Q. I show you government's identification number five (handed to witness) and ask you to state, if you know, what it is please.

A. That is the—another view of the chair in the Club 69.

Q. Did you take that picture?

A. I did, sir.

Q. Did you process the negative upon which the exposure was made? A. I did.

Q. Did you make that print? A. I did.

Q. Was that print made from an unretouched negative that you had exposed at the Club 69?

A. It was.

Q. Does that picture faithfully represent the scene as [125] you viewed it when you photographed it? A. It does.

Q. I show you government's identification number six (handed to witness) and ask you to examine it please?

A. That is a small package of cigarettes behind the green chair. The green chair is directly on the left here with the wall—pardon me—on the left and the chair on the right.

(Testimony of George M. Tweedy.)

Q. Did you take that photograph?

A. I did.

Q. Did you make that print? A. I did.

Q. Did you make the print from an unretouched negative, Mr. Tweedy? A. I did.

Q. The negative that you had exposed out there at the Club 69? A. I did.

Q. Does that print faithfully represent the subject matter which it purports to represent as you viewed it when you photographed it?

A. It does.

Q. I show you government's identification number seven (handed to witness) and ask you to state what it is, if you know. [126]

A. That's the package of cigarettes laying against the wall, the south wall of the building—west wall of the building and the chair is turned on its side in the Club 69.

Q. Did you take that picture? A. I did.

Q. You exposed the negative of that scene?

A. I did.

Q. Did you make that print of that negative?

A. I did.

Q. Was the print made from the negative as—in its original condition as it was processed?

A. It was.

Q. Does that picture faithfully represent the subject matter which it purports to as you viewed it when you photographed the scene?

A. It does.

(Testimony of George M. Tweedy.)

Q. I show you government's identification number 8 (handed to witness) and ask you to state, if you know, what it is, Mr. Tweedy?

A. That's the package of cigarettes on the floor along the west wall of Club 69.

Q. Did you take that picture? A. I did.

Q. Did you process the negative that you exposed there? A. I did. [127]

Q. Did you make that print? A. I did.

Q. Is that print made from an unretouched negative that was exposed at that scene?

A. It was.

Q. Does that photograph faithfully represent the subject matter it purports to represent as you viewed it when you photographed it?

A. It does.

Q. Did you do any other act in the assistance that you were asked to give as you testified at your visit at the Club 69?

A. I assisted in the searching.

Q. What portion of the premises did you search?

A. I searched the small white building in the rear of the Club 69.

Q. Was your attention attracted to any object of your search while you were searching?

A. In that building, no, sir.

Q. Did you search any other place?

A. The small hut to the south of the white building behind the Club 69.

(Testimony of George M. Tweedy.)

Q. Is that in close proximity to the main building?
A. Approximately 45, 50 feet.

Q. In which direction? [128]

A. That would be southwest.

Q. South and west?

A. From the southwestern corner—— (Interrupted.)

Q. Did you happen to observe a silver colored trailer on the premises?

A. The silver colored trailer is in between the small building I referred to and the main building.

Q. Did you find anything there that attracted your attention as the object of your search?

A. Yes.

Q. What did you find?

A. A small tobacco can was handed to me by Mr. Siler. It was found in the closet of this small building.

Q. Were you there at the time it was found?

A. I was.

Q. You were close to the closet, was you?

A. I was standing right in front of the closet door.

Q. Did you do anything with the can?

A. I placed the can on the kitchen table on the table immediately to my right.

Q. What happened then?

A. Mr. Bremer looked in the can and he took the can. He had it in his possession there on the table.

Q. Did you see either of the defendants on the

(Testimony of George M. Tweedy.)

premises at the time you were making your search, Mr. Tweedy? [129]

A. When I was taking the photographs, I saw Mrs. Wright at the Club 69.

Mr. Hepp: You may question the witness.

Cross-Examination

By Mr. Hurley:

Q. You say you saw a can found in a cabin near the 69 Club? A. That's right.

Q. And do you know who was occupying the cabin at that time? A. I do not.

Q. Did you make any investigation to find out?

A. No, I didn't.

Q. Do you know of any investigation being made to find out who was occupying the cabin?

A. I do not.

Q. You don't know anything about that?

A. No.

Q. You went out primarily to take pictures, is that right? A. That's right, sir.

Q. And did you ever go out with Marshals on any other occasions to take pictures?

A. I never been there before.

Q. I say, did you ever go out on any occasions in the [130] year—whatever you have been here—with the Marshals or any of the deputies to go out and take pictures? A. I have.

Q. How many times?

A. Six, seven times maybe.

(Testimony of George M. Tweedy.)

Q. You went out with them on—for the purpose of taking pictures? A. That's right, sir.

Q. Where did you go?

Mr. Hepp: I object to that, your Honor. I don't believe that has any bearing on this trial.

The Court: Objection sustained.

Q. (By Mr. Hurley): And did they tell you to bring your—all your paraphernalia along so could take pictures?

A. They usually request that I have my camera equipment, sir.

Q. And—— (Interrupted.)

A. I go with it all the time.

Q. Did you take pictures of a chair in this room and some cigarettes on the floor, is that right?

A. State the question again.

Q. I say, you took a picture of a chair in this room where you went in and took some pictures of some cigarettes on the floor? [131]

A. I did, sir.

Q. You didn't see who put them down there then, the cigarettes, did you? A. No.

Q. Huh? A. No.

Q. You don't know for sure who put them there?

A. I do not.

Q. But you took some pictures? A. I did.

Q. I see. And you went into a cabin that you don't know who was occupying and somebody showed you a can? A. That's right, sir.

Mr. Hurley: That's all.

Mr. Hepp: That's all, Mr. Tweedy.

(Mr. George Tweedy left the witness stand.)

Mr. Hepp: At this time, your Honor, I would like to offer into evidence government's identifications number four and—government's identification number four, your Honor, the picture describing a chair.

Mr. Hurley: I would like to see it.

Mr. Hepp: Oh, sure. (Handed photograph to Mr. Hurley.)

Mr. Hurley: No objection to that, your [132] Honor.

The Court: May be admitted.

Clerk of the Court: Plaintiff's exhibit "A."

(A photograph, showing a chair, previously received for identification, was received in evidence and marked Plaintiff's exhibit "A.")

Mr. Hepp: I offer government's identification number five (handed to Mr. Hurley).

Mr. Hurley: No objection, your Honor.

The Court: May be admitted.

Clerk of the Court: Plaintiff's exhibit "B."

(A photograph, showing a chair, previously received for identification, was received in evidence and marked Plaintiff's exhibit "B.")

Mr. Hepp: I offer government's identification number six (handed to Mr. Hurley).

Mr. Hurley: Well, we object; incompetent, irrelevant and immaterial; not properly identified

and for the reason it doesn't show anything except some squares on the floor and you can't tell anything about what it means; and for the further reason that there is no evidence to show that it is anything connected with the defendants and anything that they claim—— (Interrupted.) [133]

Mr. Hepp: Your Honor, I believe the identification—— (Interrupted.)

Mr. Hurley: I object—— (Interrupted.)

Mr. Hepp (Continuing): ——has been properly identified.

Mr. Hurley: I understand, but you did them all at once.

The Court: I will take a look at it. (Handed to Court.)

Mr. Hurley: And I don't know which one is which. There is some—supposed to be some cigarettes on there. I don't know what it is and I object to it, which they claim shows cigarettes for the reason there is no evidence of how the cigarettes got there and there is no connection between them and the defendants and I don't know what this is supposed to represent.

The Court: Objection overruled, may be admitted.

Clerk of the Court: Plaintiff's exhibit "C."

(A photograph, previously received for identification, was received in evidence and marked Plaintiff's exhibit "C.")

Mr. Hepp: I offer government's identification

number 7 into evidence, your Honor (handed [134] to Mr. Hurley).

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid for it. I see a few cans of beer and there's nothing to show where they come in and nothing has been said about them and nothing to show that there is anything wrong with the cans of beer. They are all on the floor.

The Court: Objection overruled.

Mr. Hurley: The chair has been moved.

Clerk of the Court: Plaintiff's exhibit "D."

(A photograph, previously marked for identification, was received in evidence and marked Plaintiff's exhibit "D.")

Mr. Hepp: At this time, your Honor, I would like to offer government's identification number 8 (handed to Mr. Hurley).

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid for its admission; nothing to show that the Marshal didn't put this little package there on the floor.

The Court: Objection overruled, may be admitted.

Clerk of the Court: Plaintiff's exhibit [135] "E."

(A photograph, previously marked for identification, was received in evidence and marked Plaintiff's exhibit "E.")

Mr. Hepp: Call Vanada Donaby.

VANADA DONABY

called as a witness in behalf of the government,
being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name to the jury, please? A. Vanada Donaby.

Q. Where do you live, Miss Donaby?

A. Seattle, Washington.

Q. How old are you? A. 23.

Q. Have you ever lived in Fairbanks, Miss Donaby? A. Yes, I have.

Q. During what period of time did you live in Fairbanks, Miss Donaby?

A. From February until August.

Q. Do you know either of the defendants? Do you know Raymond Wright? A. Yes, I do.

Q. Do you know Vernestine Wright? [136]

A. Yes, I do.

Q. Are you familiar with any premises known as the Club 69 in Fairbanks?

A. I used to live there.

Q. When did you live there, Vanada?

A. In April.

Q. For how long a period of time did you live there? A. From April to July.

Q. Were you working at the Club 69?

A. Yes, I was.

(Testimony of Vanada Donaby.)

Q. What was the nature of the work you did there? A. Prostitute.

Q. Vanada, did you—do you know what marihuana is? A. Yes, I have seen it.

Q. Did you ever see any out at the Club 69?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid as to the time or anything else.

Mr. Hepp: Your Honor, she stated she lived out there.

The Court: You got any authority to show that would be admissible.

Mr. Hepp: Well, not on the tip of my tongue, your Honor.

The Court: I will sustain the objection. [137]

Q. (By Mr. Hepp): Vanada, did you ever hear Raymond Wright ever say anything about marihuana?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid; no place laid or anything else. What he might have said about it doesn't have anything to do with this case. He is accused of having marihuana in his possession.

Mr. Hepp: Your Honor, this could be a foundation statement and besides, I certainly think these defendants are bound by their admissions against interest.

The Court: Well, lay the foundation for it.

Q. (By Mr. Hepp): Just "yes" or "no," did you ever hear any conversation from Mr. Wright?

(Testimony of Vanada Donaby.)

Mr. Hurley: Make the same objection.

Witness: Yes.

Mr. Hurley: Just don't answer until I object, please.

Q. (By Mr. Hepp): Who was present at the time of the conversation, Vanada? He is not going to object, just answer the question.

A. Who was present?

Q. At the time when you heard Mr. Wright make any statement [138] concerning marihuana.

A. Oh, I was present.

Q. Anybody else? A. Yes.

Q. Can you recall who?

A. Oh, Bill Jones is one.

Q. Where was this conversation—where did this conversation take place? A. Club 69.

Q. Do you recall approximately the date that it happened, Vanada? A. No, I don't.

Q. Do you know what month of the year it happened? A. No, I don't.

Q. Was it in the spring or the summer months?

A. Oh, it had to be in the spring, I suppose, between April and July.

Q. What did Mr. Wright say about anything concerning marihuana?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid; has nothing to do with the allegations charged in this indictment, what he said in the spring of the year.

(Testimony of Vanada Donaby.)

The Court: Make your offer, Mr. Hepp. Come forward. [139]

(The following proceedings were had out of the presence and hearing of the jury:)

Mr. Hepp: I am offering to show by this witness, your Honor, that she saw marihuana out at the Club 69 and that she saw—— (Interrupted.)

The Court: Now, you have asked her for admissions of statements by Mr. Wright. You didn't ask her what she saw.

Mr. Hepp: Well, I had several objections sustained and I would like to make an offer generally as to this witness as to what she saw and how it relates to the opening statement that counsel for the defense has given.

The Court: The question right now before her is a statement of Mr. Wright.

Mr. Hepp: Well, I want—— (Interrupted.)

The Court: What do you expect to prove in that respect?

Mr. Hepp: I want to show that Mr. Wright had asked her to sell marihuana out there, to aid in the sale of it.

Mr. Hurley: I object to it, your Honor, as incompetent, irrelevant and immaterial. It has nothing to do with the charge in the indictment and it is too remote and they can't convict the defendant on some other charge. They can bring in witnesses on a dozen [140] charges, but this isn't the kind of a crime that other crimes can be proven which we

(Testimony of Vanada Donaby.)

don't have any chance to defend against. It doesn't come within that category. They say they went out there and found it on this date and that it was in his possession. But to come in to prove him guilty by other crimes is just not admissible because we have no way to defend against it. That's the general law.

The Court: Do you have any authorities to show that that would be admissible?

Mr. Hepp: I am not prepared to show any authorities, your Honor.

The Court: Offer denied.

(The following proceedings were had in the presence and hearing of the jury:)

Q. (By Mr. Hepp): Miss Donaby, while you were staying out at the Club 69, did you ever see any marihuana on the premises?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; not within the issues of the case; doesn't ask her when she was there or when she saw or anything of the kind.

Mr. Hepp: She has already testified—— (Interrupted.)

Mr. Hurley: Doesn't have anything to do with the issues of this case. They allege that this [141] defendant was in possession of marihuana or whatever they call it when they went out there and they searched the premises. They can't prove other crimes.

The Court: Objection sustained.

(Testimony of Vanada Donaby.)

Q. (By Mr. Hepp): Miss Donaby, did you ever see Raymond Wright, the defendant, smoke marihuana?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; has nothing to do with the issues in the case. He is not accused of smoking.

Mr. Hepp: Your Honor, I don't believe that is a crime. I don't see that the nature of his objection—— (Interrupted.)

Mr. Hurley: He is not accused of smoking. It doesn't make any difference whether he smokes or doesn't smoke.

The Court: Objection will be sustained.

Mr. Hepp: Excuse me, just a minute, your Honor. I want to refresh my memory on some notes I have (pause). I would like to withdraw this witness at this time, your Honor.

The Court: Very well.

Mr. Hepp: Unless counsel has some questions he wants to ask her concerning what she said.

Mr. Hurley: Are you going to call her [142] back?

Mr. Hepp: I may not, Mr. Hurley.

Mr. Hurley: Well—— (Interrupted.)

Mr. Hepp: So if you desire to cross-examine her, you better do so now.

Mr. Hurley: Well, I would like to ask her a few questions.

(Testimony of Vanada Donaby.)

Cross-Examination

By Mr. Hurley:

Q. You say you worked as a prostitute?

A. Yes, I did.

Mr. Hurley: That's all.

(Vanada Donaby left the witness stand.)

Mr. Hepp: Your Honor, at this time, I offer government's identification number one (handed to Mr. Hurley).

Mr. Hurley: I object to that as incompetent, irrelevant and immaterial; for the reason that there is no evidence to show anything was ever contained in it or had any connection with any one of the defendants.

The Court: Objection overruled, may be admitted.

Clerk of the Court: Plaintiff's exhibit [143] "F."

(A brown envelope, previously marked for identification, was received in evidence and marked as Plaintiff's Exhibit "F.")

Mr. Hepp: I offer government's identification number two (handed to Mr. Hurley).

Mr. Hurley: Same objection.

The Court: Same ruling.

Clerk of the Court: Plaintiff's exhibit "G."

(A brown envelope, previously marked for identification, was received in evidence and marked as Plaintiff's Exhibit "G.")

Mr. Hepp: I offer government's identification number three, your Honor (handed to Mr. Hurley).

Mr. Hurley: Same objection, your Honor.

The Court: Same ruling.

Clerk of the Court: Plaintiff's exhibit "H."

(A brown envelope, previously marked for identification, was received in evidence and marked as Plaintiff's Exhibit "H.")

Mr. Hepp: I will rest the government's case, your Honor.

Mr. Hurley: I wonder if we can have a continuance until tomorrow morning. We can't finish the [144] case until tomorrow anyway and I am awfully tired. This is three cases in a row for me and I would like to have a little rest. We can't finish it until tomorrow afternoon, I don't think, and this is the third case in a row and I am awfully tired, your Honor, and I would like to have until ten o'clock so I can present—our case won't take long, only about half an hour or so, maybe three-quarters of an hour.

The Court: Any objection, Mr. Hepp?

Mr. Hepp: Well, I have been at more cases than Mr. Hurley, but I won't object.

Mr. Hurley: He is a lot younger than I am, too, your Honor.

The Court: You don't object to it?

Mr. Hepp: Well, if they feel they are prejudiced thereby, I am not going to object to it. I would like to get this whole thing over with.

Mr. Hurley: Can't finish it until tomorrow anyway, your Honor.

The Court: All right.

(At this point, 3:45 o'clock p.m., the court duly admonished the jury, and the trial of this cause was recessed until ten o'clock a.m., on November 9, 1950.) [145]

Be It Remembered, that upon the 9th day of November, 1950, at 10 o'clock a.m., appeared the defendants in court in person and with counsel, the Honorable Harry E. Pratt, District Judge, presiding:

The Court: This is the time set for continuing the trial of the United States vs. Wright, 1509 criminal. Counsel ready to proceed?

Mr. Hurley: We are ready, your Honor.

Mr. Hepp: Ready.

Mr. Hurley: If the Court please, at this time, I would like to make a motion outside of the presence of the jury.

Mr. Hepp: Your Honor, I likewise would like to make a motion outside of the hearing of the jury.

The Court: The jury will be—remain in the hallway subject to call.

(The jury left the court room.)

Mr. Hurley: May it please the Court—— (Interrupted.)

Mr. Hepp: May I just say a word, Mr. Hurley?

If I can anticipate counsel's motion, I believe mine is more timely at this time than counsel's.

The Court: Very well.

Mr. Hepp: If I can anticipate his motion, if it is the usual motion at this time of the trial [140] by a defendant.

The Court: Proceed.

Mr. Hepp: Your Honor, at this time, I would like to move that the court allow the government to reopen its case and to proceed with the evidence as was started at the time when the government rested its case and the rulings of the court compelling it to do that at that time. I have, I believe, very strong authorities to show the admissibility of the evidence that I endeavored at that time to introduce and I would like with the court's leave to present those authorities to the court at this time as an offer of that proof.

The Court: Very well.

Mr. Hurley: We object to any opening of the case and I think that if counsel knew that he was going to make a motion of this kind, he should have given us some time to prepare in regard to it.

The Court: Objection overruled.

Mr. Hurley: Save an exception.

The Court: I will give you some time if you need it.

(At this time, Mr. Hepp presented argument for permission to reopen the government's case to introduce evidence.)

(Mr. Hurley requested permission for [147] time to answer Mr. Hepp's argument and the court granted until 1 o'clock p.m.)

The Court: Call the jury.

(The jury reentered the courtroom.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

The Court: We are going to take an adjournment in a few minutes to one o'clock, ladies and gentlemen of the jury, but the jury will be excused until two o'clock.

(Whereupon, the Court duly admonished the jury and at 10:30 a.m. the trial of this cause was recessed until one o'clock p.m.)

(At one o'clock p.m. the trial of this cause was resumed.)

The Court: Counsel ready to proceed?

Mr. Hurley: Yes, we are ready, your Honor.

The Court: Very well.

(At this time, Mr. Hurley presented argument to the Court, resisting Mr. Hepp's motion to reopen [148] the government's case.)

(Mr. Hepp presented further argument in answer to Mr. Hurley's argument.)

The Court: Motion of the plaintiff will be

granted. You will open up the case and introduce your evidence along that line. We will recess until two o'clock.

Mr. Hurley: We take an exception to the court's ruling and at this time I would like to make a motion for an instructed verdict of not guilty and a judgment of acquittal for the reason that the government has failed to prove its case sufficiently to go to the jury.

The Court: Plaintiff's case isn't closed yet.

Mr. Hurley: I understand but I wanted to make the motion to preserve my right.

The Court: Motion denied.

Mr. Hurley: I will make it again.

(At this time, the trial of this cause was recessed until two p.m.)

(At two o'clock p.m. the trial of this cause was resumed.)

The Court: Call the roll of the jury. [149]

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

The Court: Plaintiff's case has been reopened with the permission of the court. You may proceed, Mr. Hepp.

Mr. Hepp: Call Vanada Donaby, please.

VANADA DONABY

recalled as a witness in behalf of the government,
having been previously sworn, testified as follows:

Redirect Examination

By Mr. Hepp:

Q. To reintroduce yourself, would you state your name again please? A. Vanada Donaby.

Q. I believe you stated yesterday while you were on the stand that you had lived at the Club 69?

A. Yes, I did.

Q. Would you state whether or not you knew the defendants, Raymond Wright or Vernestine Wright? A. Yes, I did.

Q. What did you say in that regard?

A. I said that I knew them. [150]

Q. How long did you live at the Club 69, Vanada?

A. From April until July the 29th.

The Court: What year?

Witness: This year, '50.

Q. (By Mr. Hepp): By living there, what—did you take your meals there, Vanada?

A. Beg pardon?

Q. I say, by your statement of living there, do you mean—did you take your meals there at the Club 69? A. Yes, I did.

Q. Did you sleep there? A. Yes, I did.

Q. Did you spend the major portion of your time in any 24-hour day at the Club 69?

A. Yes, I did.

Q. I believe you stated yesterday, Miss Donaby,

(Testimony of Vanada Donaby.)

that you know what marijuana was, is that right?

A. Yes, I did.

Q. Did you ever see any marijuana on the premises of the Club 69?

Mr. Hurley: Just a minute, we object to that as incompetent, irrelevant and immaterial; not within the issues of the case and for the further reason it is an attempt to prove a separate and distinct crime [151] from that charged in the indictment.

The Court: Objection overruled.

Q. (By Mr. Hepp): Would you answer the question, Vanada? A. Yes, I have.

Q. Did you ever see—I will withdraw that part of the question. Do you know where Raymond Wright lived during the period of time that you lived out at the Club 69? A. Yes, I do.

Q. Where did he live?

A. He lived at the trailer, silver colored trailer.

Q. Where is that in relation—where is the silver colored trailer?

A. It is right by the Club; Club 69.

Q. Did you ever see him inside the Club 69 during that period? A. Yes, I did.

Q. Would you state how often or when you saw him there, Vanada?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid.

The Court: Objection overruled.

Witness: Quite often. [152]

(Testimony of Vanada Donaby.)

Q. (By Mr. Hepp): Do you know where Vernestine Wright lived while you were there at the Club 69?

Mr. Hurley: Same objection.

The Court: Objection overruled.

Witness: In the silver colored trailer.

Q. (By Mr. Hepp): Is that the same trailer that Raymond Wright lived in, Vanada?

A. Yes, it is.

Q. Did you have occasion to see Mr. Wright every day or nearly every day during the time that you stayed there at Club 69?

Mr. Hurley: We object to that as leading and suggestive; incompetent, irrelevant and immaterial.

The Court: Objection overruled.

Witness: Yes, I did.

Q. (By Mr. Hepp): Did you ever see the defendant, Raymond Wright, have any marijuana while he was at the Club 69?

Mr. Hurley: Same objection, incompetent, irrelevant and immaterial; no proper foundation laid; an attempt to prove a crime other than what is charged in the indictment.

The Court: I think you should show what place the defendant Wright was in. [153]

Mr. Hepp: I beg your pardon?

The Court: What place was the defendant, Wright?

Mr. Hepp: I asked when he was at the Club 69, I believe, your Honor. I will have—I would be glad to have the reporter read the question.

(Testimony of Vanada Donaby.)

(The reporter read the question as follows:
“Q. Did you ever see the defendant, Raymond Wright, have any marijuana while he was at the Club 69?”)

The Court: I thought you said “while you were at the Club 69.” All right, go ahead.

Q. (By Mr. Hepp): Would you answer the question, Miss Donaby? A. Yes, I did.

Q. Did you ever see the defendant, Raymond Wright, ever smoke any marijuana while he was at the Club 69?

Mr. Hurley: We object to that, if the Court please.

The Court: Objection overruled.

Q. (By Mr. Hepp): Would you answer the question, please? A. Yes, I have.

Q. Did you ever see any sales made at the—of any sales of marijuana made at the Club 69?

Mr. Hurley: We object to that as [154] incompetent, irrelevant and immaterial, not within the issues; attempt to prove something that is not charged in the indictment.

The Court: Objection overruled.

Q. (By Mr. Hepp): Would you answer the question please? A. Yes, I have.

Q. Who did you see sell marijuana at the Club 69 premises, Vanada?

Mr. Hurley: Same objection.

The Court: Same ruling.

Witness: Vernestine. Vernestine and Raymond.

Q. (By Mr. Hepp): You have seen both of

(Testimony of Vanada Donaby.)

them sell marijuana there? A. Yes, I have.

Q. Had those sales been numerous or very few?

Mr. Hurley: We object to that as calling for a conclusion and incompetent, irrelevant and immaterial and for the same reason as before stated.

The Court: I think you should show when this was.

Q. (By Mr. Hepp): When did you see the sales made—— (Interrupted.)

Mr. Hurley: We object to that, if the [155] Court please.

Mr. Hepp (Continuing question): ——that you have testified—— (Interrupted.)

Mr. Hurley: Incompetent, irrelevant and immaterial, not within the issues—— (Interrupted.)

Mr. Hepp: I would like, your Honor, to instruct Mr. Hurley to allow me to finish a question before he raises his objection.

Mr. Hurley: I am afraid she's going to answer before—— (Interrupted.)

The Court: What was the question? What was the question?

Mr. Hurley: I don't want to get my objection in too late, that's all.

Mr. Hepp: I don't believe I still have finished my question.

Mr. Hurley: Well, go ahead.

Q. (By Mr. Hepp): When the sales were made that you were referring to in your last statement, Miss Donaby, when were those sales made?

(Testimony of Vanada Donaby.)

Mr. Hurley: Same objection as before, your Honor.

The Court: Objection overruled.

Witness: I don't remember the exact [156] date but it was made between the time I was living there.

Q. (By Mr. Hepp): And that was what dates again, please?

A. From the first—some part of April until the 29th of July.

Q. And which—of this year? A. '50, 1950.

Q. That is this present year, is it?

A. Yes, it is.

Q. Do you know who managed the Club 69 while you were working there, Miss Donaby?

A. Raymond Wright and Vernestine.

Q. Did each of them give you instructions concerning your work?

Mr. Hurley: We object to that as leading and suggestive; not within the issues.

The Court: Objection overruled.

Witness: Yes.

Mr. Hepp: You may question the witness.

Recross-Examination

By Mr. Hurley:

Q. Where were you on the 4th day of August, 1950?

A. (Pause.) I don't remember. I think I was here.

(Testimony of Vanada Donaby.)

Q. Where? [157]

A. Here at the jail.

Q. Where? A. Here.

Q. What do you mean by here?

A. Here at the jail.

Q. What were you doing in jail?

A. I was held here for protection.

Q. You were in jail?

A. No, I wasn't in jail.

Q. You weren't? Where were you on the 4th of August, 1950? A. I was here.

Q. Whereabouts? A. Downstairs in jail.

Q. In jail? A. Uh-huh.

Q. And did you make an affidavit for a search warrant while you were in jail?

A. Oh, I don't know.

Q. You don't know? A. No, I don't.

Q. You don't?

Mr. Hepp: Your Honor, I am going to object to that and move that that answer be stricken because there is no proper foundation that this witness would know [158] what she made an affidavit for or anything and I don't believe that the question was sufficiently clear to enable this witness to answer.

The Court: May be stricken. I don't see the relevancy of it any way.

Mr. Hurley: Save an exception. I think it has a bearing—this is in connection with my objection, your Honor—I think it has a bearing on the testimony of the deputies that testified that they didn't

(Testimony of Vanada Donaby.)

know who made the affidavit for the search warrant and she testified she was in jail and I happen to know that she signed the affidavit. I think I have a right to show who got her to sign it in order to show what happened in connection with the search warrant. That is the purpose of my question.

The Court: You didn't lay any foundation for impeaching any deputy marshal on that subject.

Mr. Hurley: It isn't a question of impeaching.

The Court: I will sustain the objection.

Mr. Hurley: Save an exception.

Q. (By Mr. Hurley): And how long were you in jail after the 4th day of August, 1950?

Mr. Hepp: I object to that question. [159] I don't think there is any evidence that she was in jail. She says she was at the jail.

Mr. Hurley: She said she was in jail.

Mr. Hepp: She said here in Fairbanks at the jail.

Mr. Hurley: She said she was in jail. I think the District Attorney knows she was.

The Court: I don't know what she said myself.

Witness: I said I was held in jail for protection.

Q. (By Mr. Hurley): You were in jail, is that right? I don't care about the protection part of it. You were in jail, is that right?

A. Yes, I was here.

Q. In jail? A. Yes.

Q. Yes. And how long after the 4th day of August was it before you were let out?

A. I don't remember.

(Testimony of Vanada Donaby.)

Q. What? A. I don't remember.

Q. You don't remember? No idea how long you were in jail? A. I don't remember. [160]

Q. You don't remember how long you was in jail? A. No, I don't.

Q. You don't remember anything, do you?

A. What I remember, I say so.

Q. How many times you have been in jail?

A. I have never been in jail.

Q. Before?

Mr. Hepp: Is that a question, Mr. Hurley?

Q. (By Mr. Hurley): I say, you have never been in jail? A. No, I haven't.

Q. What?

A. No, I haven't never been arrested.

Q. Where did you sleep on the 4th day of August? Answer the question. Don't look at him.

Mr. Hepp: What was the question, Mr. Hurley?

Q. (By Mr. Hurley): I say, where did you sleep on the 4th day of August? A. In jail.

Q. Yes. And that is the first time you ever slept in jail, is it? A. Yes, it was.

Q. And you don't remember how long you was there? [161]

A. No, I don't.

Q. No idea?

A. No, I don't have no idea. It wasn't very long.

Q. You don't have any idea how long you were in jail?

(Testimony of Vanada Donaby.)

The Court: She just answered you it wasn't very long.

Q. (By Mr. Hurley): How long?

A. I don't know how long. It wasn't very long.

Q. How long after the 4th day of August was it?

Mr. Hepp: I object to that. He's asked that question two or three times.

The Court: Objection sustained.

Mr. Hurley: A person who has never been in jail before ought to know when they get out.

Mr. Hepp: Counsel is just trying to make her guess at a date and try to say she is wilfully false in it.

The Court: I will sustain the objection, Mr. Hurley.

Mr. Hurley: Oh, alright.

Q. (By Mr. Hurley): And did you get out on the 5th of August or the 6th? You don't have any idea?

A. I don't remember. [162]

Q. What day did you leave the 29 Club?

A. I don't know anything about the 29 Club?

Q. I mean the 69 Club.

A. The 29th of July.

Q. You remember that day exactly?

A. Of course, I do. That day was easy to remember.

Q. But in jail you can't remember when you went there and when you got out, is that right?

A. In jail I was no prisoner.

Q. I didn't ask you if you was a prisoner. I say, you can't remember when you went to jail

(Testimony of Vanada Donaby.)

and you can't remember when you got out, but you remember when you left the 69 Club, the exact day?

A. Well, that was easy to remember.

Q. Uh-huh?

A. That's like being in the pen.

Q. Being in jail was harder treatment, wasn't it?

Mr. Hepp: I am going to object to further questions on that subject.

Mr. Hurley: I am going to quit right now.

The Court: Objection is sustained.

Mr. Hurley: I say I quit right now. I give up. That's all. Oh, just one other question I want [163] to ask you.

Q. (By Mr. Hurley): Who did you see either of the defendants sell marijuana to?

A. Oh, I don't know the people.

Q. Have you ever given any description of them to the marshals?

A. I don't remember. I don't know.

Q. How many—how much did you see them sell?

A. I don't remember.

Q. And how did they sell it? What did it consist of?

A. Oh, like a cigarette, rolled like a cigarette.

Q. And you didn't see anybody smoke any of them, did you? A. Yes, I did.

Q. Did you smoke any? A. Yes.

Q. You did? A. Uh-huh.

Q. You smoked them? A. Yes, I have.

Q. What? A. Yes, I have.

Q. How long have you been an addict?

(Testimony of Vanada Donaby.)

Mr. Hepp: I object to that, your Honor. There is no evidence that this girl is an addict.

Mr. Hurley: Well then, I'll put the [164] question this way.

Q. (By Mr. Hurley): How long have you been smoking marijuana cigarettes?

A. Oh, I tried it out at the Club 69.

Q. And do you know a man by the name of "W.O.," who is referred to as "W.O."?

A. I know lot of people by that initial. I can't recall the name.

Q. You don't remember? Do you remember a man down in California that went by that name that you were living with?

Mr. Hepp: I object to that, your Honor. There is no evidence that this girl was ever in California and that she was living with anybody, with anybody by the name of "W.O."

The Court: I will sustain—— (Interrupted.)

Mr. Hurley: Alright. I will ask her this way.

Q. (By Mr. Hurley): Did you know a man in California that went by the name of "W.O."?

A. No.

Q. You didn't—or in Washington, I mean?

A. No.

Q. You didn't know any such man?

A. No, I didn't. [165]

Q. And did you ever know a man by that name who was dealing in drugs?

Mr. Hepp: I object to that. She said she didn't

(Testimony of Vanada Donaby.)

know any man by that name. Counsel is trying to get prejudicial matters—— (Interrupted.)

The Court: Objection sustained.

Q. (By Mr. Hurley): I will ask you if it isn't a fact that while you were out at the 69 Club that you told a colored girl by the name of Willa May Walters that you were living with a man known by the name of "W.O." and that he was convicted of dealing in narcotics—— (Interrupted.)

Mr. Hepp: Don't answer that question.

Q. (By Mr. Hurley): (Continuing): ——and that the F.B.I. questioned you about it?

Mr. Hepp: Don't answer the question. Now, I object to that, your Honor. There is no foundation showing the relevancy to this trial. It brings in a collateral issue. If he is trying to introduce that kind of evidence to impeach this witness, I don't think that this witness is a proper witness to do that with and it is inadmissible for other grounds that it has no bearing on the issues of this case or deals with this girl's testimony.

The Court: I will sustain the objection. [166]

Mr. Hurley: Save an exception.

Q. (By Mr. Hurley): And do you know a girl by the name of Willa May Walters?

A. Yes, I do.

Q. And did you ever talk with her?

Mr. Hepp: I object to that, your Honor, unless they can show any conversation with her. It wouldn't be admissible here.

The Court: Objection is sustained. The question is too general.

Mr. Hurley: Save an exception. I think that's all.

Mr. Hepp: That's all.

The Court: That's all then.

(The witness left the stand.)

Mr. Hepp: Call William Jones please.

WILLIAM JONES

called as a witness in behalf of the government,
being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name to the jury please? A. William Jones. [167]

Q. Where do you live, Mr. Jones?

A. Los Angeles, California.

Q. How old are you, Mr. Jones?

A. 40.

Q. Are you married? A. Yes, sir.

Q. Do you have a family? A. I do.

Q. Did you ever live in Fairbanks, Mr. Jones?

A. Yes, sir.

Q. During what period of time did you live in Fairbanks, Mr. Jones?

A. From the 30th of May until the 5th of August.

Q. Do you know the defendant, Raymond Wright? A. I do.

Q. Do you know the other defendants, Vernes-tine Wright? A. I do.

(Testimony of William Jones.)

Q. How long have you known Mr. Wright?

A. I would judge oh about the 10th or the 15th of June.

Q. Since—you say you have known him since that date? A. That's right.

Q. How long have you known the defendant, Vernestine Wright?

A. The same length of time.

Q. Are you familiar with the premises of the Club 6— [168] known as the Club 69?

A. I am.

Q. Have you ever been at the premises of the— at the Club 69? A. I have.

Q. When were you first there, Mr. Jones?

A. Around about the 10th or 15th of June.

Q. What was the occasion of your being there then?

A. Speaking to Mr. Wright concerning some plumbing.

Q. Did you ever enter into any business relationship with Mr. Wright? A. Yes, sir.

Q. What sort of arrangement was that?

A. Plumbing and—— (Interrupted.)

Q. And where was this plumbing to be done?

A. At his new home on—I think 23rd avenue—and also at Club 69. I did work there too.

Q. Where did you live during the period of time that you were in Fairbanks?

A. 801 21st street, 21st avenue.

Q. During the time that you knew Mr. Wright, that is to say, from the 10th to the 15th of June

(Testimony of William Jones.)

until the 5th of August when you say you left, did you have occasion to go out to the Club 69 many times or a few times? Would you just make some statement concerning that? [169]

A. The only time was when I was doing the work out there when I talked to him about doing the other job at 23rd avenue.

Q. Approximately how many days did you work out at the Club 69?

A. I would judge around 7 or 10 days.

Q. That was this summer just last past?

A. That's right.

Q. Mr. Jones, do you know what marijuana is?

A. Well, I have never used it but I know what it is like.

Q. Have you ever seen any marijuana on the premises of the Club 69?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial and—— (Interrupted.)

Witness: Yes, sir.

Mr. Hurley: Just a minute. Wait until I object; as incompetent, irrelevant and immaterial; not within the issues of the case and an attempt to prove some crime that is not charged in the indictment.

The Court: Can you show the time he is speaking of?

Mr. Hepp: I would like to lay a foundation for that then, your Honor and just ask for a yes or no on this answer.

(Testimony of William Jones.)

The Court: Alright, I will overrule [170] the objection. Fix the time.

Q. (By Mr. Hepp): Just "yes" or "no." Just answer that "yes" or "no," Mr. Jones.

A. Will you repeat that again?

Q. Have you ever seen any marijuana on the premises of the Club 69? Just "yes" or "no."

A. Yes.

Mr. Hurley: Same objection.

The Court: Same ruling.

Mr. Hurley: For the further reason that the witness has not shown himself to be qualified to answer the question.

The Court: Read what Mr. Hurley just said please.

(Mr. Hurley's last statement was read to the court by the reporter.)

The Court: It would be well to qualify the witness more in that respect.

Mr. Hepp: Your Honor, I can only ask a person if he knows what a substance is and if he says "yes," why, I don't know—I don't know how else to qualify him as to that.

The Court: Very well then. I will sustain the objection. [171]

Mr. Hurley: I move that the jury be instructed to disregard his testimony that he has already gotten in before I could make the objection.

The Court: Well, if you will tell me just what words you want stricken or the reporter—— (Interrupted.)

(Testimony of William Jones.)

Mr. Hurley: Well, his answers to the questions. He didn't—his answers to the questions he got in. He didn't give me a chance to object. He said he knew and said that there was and saw on—— (Interrupted.)

Mr. Hepp: Your Honor, I don't believe Mr. Hurley objected to his answer when he says—— (Interrupted.)

Mr. Hurley: No, he got it in before I got a chance to.

Mr. Hepp: No. That was the following question, your Honor.

The Court: I don't know what you wish stricken.

Mr. Hurley: I want his answer stricken in regard to narcotics, that he knew that there were narcotics out there.

The Court: The answer that he knew—— (Interrupted.)

Mr. Hurley: Nothing to show that he knows.

The Court: I can't tell just what you [172] want, Mr. Hurley.

Mr. Hurley: I want to strike out his answers when he said that there was narcotics out at the 69 Club.

The Court: Alright. I will strike it.

Mr. Hurley: And I want the jury not to consider it.

The Court: I have a general instruction they are not to consider any evidence that is stricken.

Mr. Hurley: I understand, your Honor.

Q. (By Mr. Hepp): Mr. Jones, during the

(Testimony of William Jones.)

dates that you have stated that you knew Mr. Wright, did you ever hear him make any statement to you concerning marijuana?

Mr. Hurley: Now, we object to that unless they show the place and the time and who was present.

Q. (By Mr. Hepp): Well, just "yes" or "no" please. Wait until the court rules.

The Court: Very well. I will overrule the objection on that.

Q. (By Mr. Hepp): Just "yes" or "no" please.

A. Yes. [173]

Q. And where did this conversation take place?

A. The Club 69.

Q. Do you recall the people that were present at the time, Mr. Jones?

A. Some of them I do.

Q. Would you state who they were?

A. Well, Willa May, Oliver—— (Pause.)

Q. Go ahead, answer the question.

A. And another young man by the name of Ripley and Raymond.

Q. And when was this conversation?

A. To be sure, I think it was on the night of the 4th of July.

Q. What did Mr. Wright say in regard to the marijuana?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid; an attempt to prove something that is not within the issues and too remote.

The Court: Objection overruled.

(Testimony of William Jones.)

Q. (By Mr. Hepp): What was the conversation, Mr. Jones?

A. Well, everybody naturally was feeling good on the 4th of July—— (Interrupted.)

Mr. Hurley: I move that that part of the answer be stricken out and the witness be instructed to answer the question. [174]

The Court: Alright. I will strike it. Give an answer direct to the question.

Witness: Well, I was offered marijuana cigarettes—— (Interrupted.)

Mr. Hurley: Now, we move that that be stricken out as not responsive to the question.

The Court: May be stricken.

Q. (By Mr. Hepp): Mr. Jones, just testify as to what was said there at that conversation. That is what we are talking about I believe.

A. Well, at that time—I am trying to explain myself so—— (Interrupted.)

Q. Well, you have to just answer each question at a time. Now we have been discussing the matter of a conversation that you have heard—you testified you heard Mr. Wright make a statement regarding marijuana here at the Club 69 on the evening of the 4th of July I believe you said. Now, what was that statement or conversation that you heard Mr. Wright make concerning marijuana?

A. The only statement I recall is when he passed it out to me and everybody else was smoking in there.

Q. Did he make a statement offering it to you?

(Testimony of William Jones.)

A. Oh, yeah. He offered me one and I told him I didn't care to smoke that. [175]

Mr. Hurley: I move that the answer be stricken out, incompetent, irrelevant and immaterial; no proper foundation laid; nothing to show what—that he knows what marijuana is or anything else.

Mr. Hepp: Your Honor, it is a little late for the kind—for that kind of an objection. He didn't object before.

Mr. Hurley: Well—— (Interrupted.)

The Court: Objection is overruled.

Mr. Hurley: He didn't respond to the question.

Q. (By Mr. Hepp): Was Mrs. Wright present at that occasion?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial. He's already testified who was present; leading and suggestive.

The Court: Objection overruled.

Q. (By Mr. Hepp): Would you answer the question? A. Yes, she was.

Q. Mr. Jones, just "yes" or "no," did you ever have any conversation with—in which Mr. Wright the defendant made any statement to you concerning any other business proposition?

A. Yes.

Mr. Hurley: We object to that—just [176] a minute—we object to that as incompetent, irrelevant and immaterial; not within the issues of the case.

The Court: Well of course, right away I can't

(Testimony of William Jones.)

see what—I can't see the relevancy of the—— (Interrupted.)

Mr. Hepp: I believe I can tie that in, your Honor.

The Court: Can you make it relevant in itself?

Mr. Hepp: Yes, I can.

The Court: Very well.

Mr. Hepp: Do you desire me to ask another question—— (Interrupted.)

The Court: If you make it relevant, you can ask him another question.

Q. (By Mr. Hepp): Mr. Jones, did you ever have a conversation with Mr. Wright concerning a business venture involving marijuana?

A. I did.

Mr. Hurley: I object to that as incompetent, irrelevant and immaterial; not proper evidence under the indictment; an attempt to prove something that is impossible for the defendant to defend against and something of which he is not accused.

The Court: You will fix the time of [177] that, will you?

Mr. Hepp: I will endeavor to do so your Honor.

The Court: Objection overruled.

Q. (By Mr. Hepp): When was this conversation, Mr. Jones?

A. To know the day, I couldn't tell you the day.

Q. Can you state the week or the month and the year? A. Yes, sir.

Q. Would you state as close as you can the date?

(Testimony of William Jones.)

A. It was in July between I would say the 15th and the first of August.

Q. Where did this conversation take place?

A. Out at the Club 69.

Q. Who was present at that conversation?

A. Well, he and I were just standing off together talking.

Q. What did he say regarding that business?

Mr. Hurley: Same objection, your Honor.

The Court: Same ruling.

Q. (By Mr. Hepp): Just state what he said concerning that.

A. Oh, he showed me the point where I was too nice a fellow to continue on with plumbing, I could lay my tools down and make more money and be neat and clean and if I would string [178] along with him with his marijuana and not only that, he—I told him I would like to come to Alaska here in Fairbanks and make it my home and I was sort of disappointed on the Negro population here to venture out from California to come here and start a business, but he showed me where I could do better with him than by going at my trade and he made several suggestions and offers to me, like giving me a lot and the deed to it; furnishing me all the lumber and material to build a home and I mentioned that to my sister-in-law but I had no intentions of ever doing a thing like that with Mr. Wright or anyone else. And he had me to understand he would have a man over in a few more days that would take over.

Q. A man?

(Testimony of William Jones.)

A. A man by the name of Elger Fields better known as Tam. And—— (Interrupted.)

Q. Better known as who?

A. Tam. T-A-M. He's the one that has been—— (Interrupted.)

Mr. Hurley: Now—— (Interrupted.)

Mr. Hepp: Just a minute.

Mr. Hurley: We object to that if the Court please. This man will talk all day if we don't stop him.

Q. (By Mr. Hepp): Did you take Mr. Wright up on his proposition? A. No, I didn't. [179]

Q. Just "yes" or "no," Mr. Jones, did you ever see any marijuana on the premises of the Club 69?

Mr. Hurley: Same objection as we made before.

The Court: Same ruling.

Mr. Hurley: Until he shows the witness is qualified, no foundation laid.

The Court: That's correct. I will sustain the objection until he shows that he is qualified to answer it.

Q. (By Mr. Hepp): How many—would you state again how many days you were at the Club 69?

A. I would say between 7 to 10 days I worked there and the evenings after my regular job.

Q. Seven to ten days? A. Yes, sir.

Q. Were you—did you have access to the premises of the Club 69?

A. Well, anywhere I wanted to go I had my—— (Interrupted.)

Q. I didn't quite understand—— (Interrupted.)

(Testimony of William Jones.)

A. I said every time, anywhere on the outside, where I wanted to go to cut my pipes, drill them.

Q. Were you working—where were you working?

A. I was working at Weeks Field in the daytime. [180]

Q. Where were you working at the premises of the Club 69, Mr. Jones?

A. Well, I was installing a complete bath there.

Q. Is that inside the building proper?

A. Inside the Club 69.

Q. Did you have occasion to go through the premises, the building structure of the Club 69 while you worked out there, Mr. Jones?

A. Well, only where the club was and into that room. I had no other reason to go any other place in there.

Q. While you were in the Club 69, did you ever see any marijuana?

Mr. Hurley: Just a minute. We object to that as incompetent, irrelevant and immaterial; no proper foundation laid; nothing to show that he is qualified to answer and an attempt to prove other crimes not charged in the indictment.

Mr. Hepp: Your Honor, I believe I laid a foundation to show that he was there. He could have seen—I suppose I can ask him if his sight is good.

The Court: Well, he testified before to see the defendant pass around something that the defendant said was marijuana, didn't he?

Mr. Hepp: Yes.

(Testimony of William Jones.)

The Court: Admissions against interest [181] are evidence.

Mr. Hepp: That is the purpose of this question, your Honor, showing an admission against interest.

The Court: The objection is you haven't shown that this man knows what marijuana is.

Mr. Hepp: I have asked him that question, your Honor, and I don't believe that was counsel's objection and he stated that he did and that was not over the objection of counsel and—— (Interrupted.)

Mr. Hurley: The objection is in the record. I think I can prove that.

The Court: A conclusion should come after showing some facts.

Q. (By Mr. Hepp): Mr. Jones, how old are—how old did you say you were? A. 40.

Q. In the course of your lifetime, have you ever had occasion to see any substance that you—was told to be marijuana? A. Yes, sir.

Q. Did you have occasion to examine it or an opportunity to examine it?

A. Well, I have seen it in cigarette form and when it is in bulk, you know. [182]

Q. Did you acquire a test in your own mind that would enable you to recognize it again when you examined it this time or these times that you have testified? A. Yes.

Q. Could you now recognize marijuana?

A. If I see it, I could.

(Testimony of William Jones.)

Q. And that is as a result of your having seen it before, is that right?

A. That's right.

Q. Did you ever see any marijuana on the premises of the Club 69?

Mr. Hurley: We make the same objection we made before; nothing to show that the witness is qualified to answer; incompetent, irrelevant and immaterial and an attempt to prove something other than the allegations charged in the indictment; just a mere conclusion on the part of the witness.

The Court: I will overrule the objection.

Mr. Hepp: I will withdraw the question, your Honor. Counsel may question the witness. Oh, just a minute. One more question.

Q. (By Mr. Hepp): During the time, Mr. Jones, that you knew Raymond Wright, do you know where he lived? A. Yes. [183]

Q. Where did he live?

A. Out at the Club 69 in the house trailer.

Q. Do you know—during the time that you knew Vernestine Wright, where did she live?

A. Same place.

Q. And that is from—what—during what dates again, Mr. Jones?

A. I say around 12th of June until the 5th of August.

Q. You stated that you had installed some plumbing out there at the Club 69? A. I did.

Q. And who instructed you as to what installations to make? A. Mr. Wright.

(Testimony of William Jones.)

Mr. Hepp: That's all. You may question the witness.

Cross-Examination

By Mr. Hurley:

Q. Mr. Jones, you say you live in Los Angeles?

A. That's right.

Q. How long have you lived there?

A. Oh—in Los Angeles?

Q. Yes.

A. Oh, I would say about four years. [184]

Q. Where did you live before that?

A. I lived in Oakland.

Q. What? A. Oakland.

Q. How long did you live there?

A. Three years.

Q. Where did you live before that?

A. In New York.

Q. How long did you live there?

A. I was born in New York.

Q. And you are what is known as a colored man, are you not? A. I guess so.

Q. Where were you on the 4th day of August of this year, Mr. Jones?

A. 4th day of August? Downstairs in the jail.

Q. And when did you get out?

Mr. Hepp: I object to any further questioning unless counsel can show its relevancy here to this trial. We are going to start on another time consuming banter like we had before.

The Court: Objection will be overruled.

(Testimony of William Jones.)

Q. (By Mr. Hurley): And do you know Van-
ada Donaby? A. I do. [185]

Q. She is a colored girl, isn't she?

A. That's right.

Q. Where was she on the 4th day of August?

Mr. Hepp: I object to that. There is no evidence here—no foundation that this witness knows—
(Interrupted.)

Q. (By Mr. Hurley): Well do you know whether or not she was—where she was?

The Court: Objection is sustained.

Q. (By Mr. Hurley): Did she get out of jail the same time you did?

Mr. Hepp: I object to that, your Honor; calling for a conclusion as assuming things not in evidence.

Mr. Hurley: She can't remember when she got out. I thought maybe he might know.

Mr. Hepp: I object to counsel making these statements here.

The Court: It's not cross-examination, Mr. Hurley, at all. Objection sustained.

Q. (By Mr. Hurley): What were you in jail for?

A. Well, for some charge that Mr. Wright trumped up that we had stolen a safe from him.

Q. What? [186]

A. I said for a charge that Mr. Wright had trumped up saying that we had stolen a safe in order to bring us back up from the Canadian border.

Q. How long were you in jail?

(Testimony of William Jones.)

A. Oh, from the 30th or 31st until the 5th of August.

Q. And you got that case dismissed, did you not?

A. I left here on the 5th of August.

Q. I say, you got the case dismissed before you left, is that right? A. It was pending.

Q. What? A. It was pending.

Q. When you left? A. Yes, sir.

Q. But you knew it was going to be dismissed, didn't you?

Mr. Hepp: I object to that, your Honor.

Witness: No.

Q. (By Mr. Hurley): I say, did you know it was going to be dismissed when you left?

A. No.

Q. Were you ever called back in connection with that case in which you were charged with stealing money from Mr. Wright?

A. Will you repeat that? [187]

Q. I say, were you ever brought back on that charge that Mr. Wright made against you for stealing money from him?

A. Well, I came back up here to—I was subpoenaed to come back here to trial and that case was brought up here and it was thrown out on the lack of evidence.

Q. You mean it was dismissed, don't you?

A. Well, dismissed for lack of evidence.

Q. You don't know whether it was lack of evidence or what it was, do you?

A. Well, it was on my—— (Interrupted.)

(Testimony of William Jones.)

Q. I say it was dismissed on the motion of the United States Attorney, wasn't it?

Mr. Hepp: Now, I object to that. There is no evidence of that anyway.

Mr. Hurley: I am asking if that is what happened.

The Court: Just a minute. I will sustain the objection. You know how to find out those things; not necessarily in the knowledge of this witness at all.

Mr. Hurley: I thought maybe he might know.

Q. (By Mr. Hurley): Did you ever use marijuana? A. No, I haven't. [188]

Q. Never smoked it? A. No.

Q. How many times have you seen marijuana?

A. Oh, I have seen it any number of times.

Q. Where? A. In Los Angeles.

Q. Yeah? A. Yes.

Q. You were with people that used it, were you?

A. No. I have seen people that used it.

Q. I say, you were around with people—— (Interrupted.)

A. Naturally. If you're going into any recreation center, a pool room or something, you see people—some fellow that will smoke and where others won't.

Q. Lot of people use it, do they?

A. Oh—— (Interrupted.)

Mr. Hepp: I object to that. There is no evidence that this witness knows how many people smoke marijuana.

(Testimony of William Jones.)

The Court: Objection overruled.

Mr. Hurley: He says he knows something about it.

Q. (By Mr. Hurley): A good many colored people use it, don't they?

A. Well, I don't think I am being tried for what happens [189] in the states.

Q. Just answer the question.

A. I gave you my answer.

Q. I asked you do many colored people use it, or—— (Interrupted.)

Mr. Hepp: I object to that, your Honor—— (Interrupted.)

Q. (By Mr. Hurley) (Continuing): ——or do you know of many that do use—— (Interrupted.)

Mr. Hepp: Just a minute, Mr. Hurley. I object to that. There is no foundation shown that this witness knows how many colored people smoke marijuana and that's an absurd question.

The Court: Objection sustained.

Q. (By Mr. Hurley): How many people have you seen using marijuana?

A. Oh, I can count them all on one hand.

Q. How do they use it?

A. Smoked it.

Q. In what? Not rolled as a cigarette?

A. That's right.

Q. Did you ever open the cigarettes to examine the contents?

A. I have seen people roll them up before smoking. I have never—— (Interrupted.) [190]

(Testimony of William Jones.)

Q. How many?

A. Oh, I had seen two different fellows roll them.

Q. And what did they have it in when they rolled them?

A. Have it in a paper.

Q. Yes, but how did they get it into the paper?

A. How did they get it in?

Q. Yes.

A. How would you roll a Prince Albert or Bull Durham?

Q. I don't know! I am asking you. How would they get it into the paper?

A. Just take it in their hand, put it in and roll it up.

Q. Where would they get it?

A. Out of their pocket or bag; anything that they would have it in; tin can.

Q. But what did they have when you saw them?

A. Well, are you speaking here in Alaska?

Q. I am talking about when you saw them rolling cigarettes. What did they have it in?

A. Different sorts—— (Interrupted.)

Q. The ones that you saw?

A. Well, I have seen them take it out of their handkerchiefs and roll one of those cigarettes.

Q. How many out of handkerchiefs?—— (Interrupted.)

A. How many what?

Q. Did you see take marijuana out of handkerchiefs? [191]

(Testimony of William Jones.)

A. I have seen one fellow do it.

Q. And what else did you see them take it out of?

A. I never seen that fellow take it out of——
(Interrupted.)

Q. I wasn't asking you about that fellow. I was asking you who else you saw take—— (Interrupted.)

A. I saw Elger Fields take it out of a newspaper and roll it.

Q. Out of a newspaper? A. Oh, yes.

Q. And who else did you see take some?

A. That's all I ever seen.

Q. That's the only two people you ever saw roll cigarettes out of marijuana? A. Yeah.

Q. I see. One took it out of a newspaper and the other took—— (Interrupted.)

Mr. Hepp: I object to that—— (Interrupted.)

Q. By Mr. Hurley, continuing): ——the other took it out of a handkerchief, is that right?

Mr. Hepp (Continuing): ——as repetitious. He has—— (Interrupted.)

The Court: Objection sustained.

Mr. Hurley: Save an exception. [192]

Q. (By Mr. Hurley): And you said you saw the defendant have some marijuana in cigarettes?

A. That's right.

Q. How do you know it was marijuana in the cigarettes?

A. How did I know? I could tell from the smell of it.

(Testimony of William Jones.)

Q. Oh, you could? A. Oh, yes.

Q. Huh? A. Yes.

Q. And who smoked them?

A. Well, I mentioned before just how many people I seen smoking here, smoking that marijuana.

Q. Just answer the question, just answer the question. A. Ask it again please.

Q. Who did you see smoke them here?

A. I saw—like I mentioned before—Willa May.

Q. Willa May who?

A. I don't know the girl's last name, but she is here in the courtroom.

Q. Yes? A. I saw Mr. Wright smoke it.

Q. Yes? A. I saw Oliver smoke it.

Q. Who?

A. Another young men by the name of [193] Oliver.

Q. Do you know what his last name is?

A. No, I don't.

Q. He is a colored man? A. Yes.

Q. Who else?

A. And another young man by the name of Ripley.

Q. Ripley? Is he a colored man? A. Yes.

Q. Who else?

A. That's all I ever seen smoke here.

Q. That's all you ever saw?

A. Yeah.

Q. Now, you say Mr. Wright—how many days were you out there working?

(Testimony of William Jones.)

A. I said in the neighborhood of 7 to 10 days.

Q. What was Mr. Wright doing during that time? A. I can't hear you.

Q. I say, what was Mr. Wright doing during that time? A. What was he doing?

Q. Yes.

A. During the time I was out there?

Q. Yes.

A. Oh, from fighting women to smoking marijuana.

Q. And you did some work for him, did you, away from there, is that right? [194]

A. I did work over there and over to his new home on 23rd avenue.

Q. Who was working over there on his new home during this time?

A. Oh, several different young men.

Q. Do you know any of them?

A. Yes, I do.

Q. Who?

A. Nathaniel Wood for one and another young man by the name of Simmons and two other fellows from back in the states worked there also, Elger Fields.

Q. Did Mr. Wright do any work over there?

A. Oh, a little.

Q. What? A. A little.

Q. How do you know?

A. Why, haven't I got eyes to see?

Q. Oh, you were over there, were you?

A. Yes, certainly.

(Testimony of William Jones.)

Q. When he was working there?

A. When I was there working, I seen him there.

Q. Working?

A. Oh, nailing a nail now and then.

Q. He would just go in and drive one nail and then he would walk away and come back and drive another nail? [195]

A. I wouldn't call him a carpenter. He worked all day long oh, 20 minutes or half hour the longest.

Q. How many full days did you put in over there?

A. Well, I would have around about four, five days before the strike was over and I worked a lot in the evenings there too.

Q. When?

A. That was in the first of June, between, I would say the 15th and—— (Interrupted.)

Q. Was it in the evening that you saw him drive a nail? A. No, it was in the daytime.

Q. In the daytime, four or five days, you were over there in the daytime? A. Uh-huh.

Q. Is that right?

A. I only saw him working over there one time, you know, he picked up a hammer and showed a fellow how to drive nails and how to put this corrugated box inside the house there for insulation over there. Further than that, I didn't see him do anything else.

Q. Was the place finished in five days?

A. No, it wasn't finished in five days.

(Testimony of William Jones.)

Q. And you don't know how long he worked there or how much work he did?

A. Well, I am only speaking about during the time I was [196] there.

Q. I say, you don't know how long he worked there or how much work he did.

A. Oh, he could still be working there. I don't know.

Q. Where was he working on the 4th day of August if you know?

A. Where he was working on the 4th day of August?

Q. Yes, of this year. Do you know?

A. No, I don't know where he was working then.

Q. Why? Weren't you working?

A. No, I was here.

Q. Oh, I know, you was in jail. How long before the 4th day, was it, of August, that you wasn't in jail?

A. How long before—— (Interrupted.)

Q. Yes. You were out how many days—how many days had you been in jail on the 4th of August? A. Previous to that?

Q. Yes.

A. We were arrested on the 30th of—I think it was the 31st or—no, it was the first of July when we were arrested.

Q. And you were there from the first of July until the—— (Interrupted.)

A. I mean the first of August.

Q. First of August until the 5th of August?

(Testimony of William Jones.)

A. I think that's about right. [197]

Q. And prior—— (Interrupted.)

A. No, the 30th. It was from the 30th until the fifth.

Q. And prior to the 30th, when was the last time that you were out there where Mr. Wright was building this house?

A. When was the last time I was there?

Q. Yes.

A. That was in July.

Q. You don't know when it was?

A. Oh, that was, as I mentioned before, it was around about the 15th of June when I went out there and I only worked there less than 10 days out there.

Q. So, the last time you saw him working out there was in June, on this house?

A. On which?

Q. On this house? A. That was in July.

Q. In July? A. Wasn't it?

Q. I don't know! I wasn't there! You said you worked out there for a week or ten days in June?

A. Yes.

Q. And I asked you if it was in June, the last time you saw Mr. Wright working on his house?

A. I am speaking of the time I put the plumbing in there. That's when he was working [198] there.

Q. He was building this new house?

A. Yes, sir.

Q. When was that?

(Testimony of William Jones.)

A. I mentioned before that was in the first part of June between the 15th and I would judge about the 25th.

Q. It wasn't in July then? A. In June.

Q. I say, it wasn't in July?

A. No, it was in June when I worked there.

Q. Now, Mr. Wright, I think you said, accused you of stealing some \$800 of his money?

A. I don't know what the sum was but he claimed we stole a safe from him.

Q. With money in it?

A. I guess so. He says so.

Q. And you said he wanted you to wear good clothes?

A. Oh, yes. I had them already before I come to Alaska. I had good clothes.

Q. Oh, you did? A. Oh, yeah.

Q. So that did not mean anything to you, did it?

A. No, not at all.

Mr. Hurley: That's all.

Mr. Hepp: No further questions.

(The witness left the stand.) [199]

Mr. Hurley: I wonder if we can have about a 10 minute recess, your Honor.

The Court: We will take a ten minute recess.

Clerk of the Court: Court is recessed for ten minutes.

(At this time, a short recess was taken.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

The Court: Counsel ready to proceed?

Mr. Hepp: Ready.

The Court: Very well.

Mr. Hurley: We are ready, your Honor.

Mr. Hepp: Call Nathaniel Wood please.

NATHANIEL WOOD

called as a witness in behalf of the government, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hepp:

Q. Would you state your name to the jury please? A. Nathaniel Wood. [200]

Q. Where do you live?

A. I live in Los Angeles.

Q. Have you ever lived in Fairbanks, Mr. Wood? A. Yes, I have.

Q. When? During what period of time did you live in Fairbanks?

A. I lived in Fairbanks—I come in Fairbanks on Memorial Day in May.

Q. Memorial Day? A. That's right.

Q. I believe you may be holding the microphone just a little too close to your mouth. Now, you say you came to Fairbanks on Memorial Day?

A. That's right.

(Testimony of Nathaniel Wood.)

Q. How long did you stay, Mr. Wood?

A. I stayed until August, sometime in August, just what—— (Interrupted.)

Q. Is that of this year? A. This year.

Q. Where did you live while you were at Fairbanks?

A. Well, I lived there on 20th street first and then after I left 20th street, I went out to the Club 69.

Q. Did you live out at the Club 69?

A. Yes, sir; Club 69, I lived out there. [201]

Q. Whereabouts at the Club 69 did you live?

A. I would say on the west side of the trailer.

Q. In what type of a structure did you live in?

A. It was in a cabin, little white cabin.

Q. On the west side of the trailer, you say?

A. Yes, sir, on the west side of the trailer.

Q. How long did you live in the little white cabin?

A. From the period I was working out there, about three weeks and a half.

Q. Three weeks and a half? Did you say— while you were working out there?

A. Yes, that's right.

Q. Then you did work out at the Club 69?

A. Sure, I worked out at the Club 69.

Q. What did you do out there?

A. I worked around his new building he was building over around the new house.

Q. What nature of work were you doing?

A. Well, I was helping the carpenter, cleaning

(Testimony of Nathaniel Wood.)

up and helping up with the plumbing work, helping the plumber.

Q. Did you work during the days or during the evenings or both or when?

A. During days and sometimes in the evenings.

Q. Did you return to the white cabin to sleep every night?

A. That's right; I returned to the white cabin to sleep.

Q. Did you ever have occasion to go into the premises—into [202] the Club 69 building?

A. Yes, sir.

Q. Would you state the number of times or approximate number of times that you had occasion to go into there?

A. Oh, I had gone there great many times. I went in there a great many times.

Q. You were in and out all the time?

A. In and out all the time.

Q. Do you know Raymond Wright?

A. Yes, sir; I know him.

Q. Do you know Vernestine Wright?

A. Sure, I know her.

Q. Did you know Raymond Wright at the time when you were living out at the Club 69?

A. I know him when I was living out there.

Q. Where was he living at the time?

A. In the house trailer.

Q. Where was Vernestine living?

A. In the house trailer.

Q. Could you set the date approximately when

(Testimony of Nathaniel Wood.)

you were living out there in this little white cabin?

A. Well, not exactly. All I know it was sometime in July. The dates I couldn't say what date it were.

Q. Sometime in July?

A. That's right. [203]

Q. Of this year? A. This year.

Q. Did you ever do any work out at the Club 69?

A. Oh, yeah, I did some work out there.

Q. Was that while you were staying there?

A. That's right.

Q. Who would instruct you as to your duties out there as to what you were to do?

A. Raymond Wright.

Q. And that was at the Club 69, was it?

A. Club 69.

Q. Mr. Wood, have you ever seen any time in your life any substance which anybody referred to as marijuana? A. Yes, sir; I have.

Q. How many times have you seen that substance?

A. Oh, great many times. I say about 10 or 12 times.

Q. At the time—at any of these times when you saw it, did you have an opportunity to examine it and inspect it and smell it? A. Sure.

Q. Were you able to fix in your mind any tests that would make it possible for you to recognize it again?

(Testimony of Nathaniel Wood.)

A. That's why I broke it and looked at it so if I ever would see it again I would know it.

Q. Then, do you know what marijuana is [204] now? A. Yes, sir; I know what it is.

Q. Just "yes" or "no," Mr. Wood, did you ever see any marijuana at the Club 69?

Mr. Hurley: Just a minute, we object to that.

Witness: Yes.

Mr. Hurley: Just a minute! We object to that as incompetent, irrelevant and immaterial; no proper foundation laid; nothing to show that this witness is qualified and an attempt to prove a crime that is not charged in the indictment.

The Court: You will fix the time later, will you?

Mr. Hepp: I will endeavor to, your Honor.

The Court: Objection overruled.

Mr. Hurley: Exception.

Q. (By Mr. Hurley): Just "yes" or "no," would you answer the question? A. Yes.

Q. What was the time or the date that you saw it?

Mr. Hurley: Same objection.

The Court: Same ruling.

Witness: Day after day. [205]

Q. (By Mr. Hepp): Day after day?

A. When I was around there.

Q. Did you ever see any marijuana in the area where you slept?

Mr. Hurley: Same objection.

Witness: Sure.

Mr. Hepp: Just a minute, Mr. Wood. Mr. Hur-

(Testimony of Nathaniel Wood.)

ley wants to object after every one of these questions, so if you will hold your answer up until he has had an opportunity.

The Court: Objection overruled.

Q. (By Mr. Hepp): Now, will you answer the question? A. Sure.

Q. Where did you see it there?

A. In my sleeping quarters.

Q. Whereabouts in your sleeping quarters?

A. In the little cabin, white cabin I was sleeping in underneath the bed.

Q. Was it in any kind of a container?

A. It was Velvet cans, Velvet cans and some was rolled, some was laying out on a newspaper drying.

Q. Velvet cans?

A. Velvet tobacco cans.

Q. Do you know who—just “yes” or “no”—do you know [206] who put the marijuana there?

Mr. Hurley: Same objection, if the Court please.

The Court: Objection overruled.

Witness: Yes.

Q. (By Mr. Hepp): Who put the—who put it there? A. Tam.

Mr. Hurley: What was that answer?

Q. (By Mr. Hepp): Tam?

A. That's right.

Q. Do you know what his full name is?

A. No—Everett Fields.

Mr. Hurley: I move that that answer be stricken out as incompetent, irrelevant and immaterial; not

(Testimony of Nathaniel Wood.)

within the issues of the case; not binding on this defendant in any way that I know of.

The Court: Can you make it relevant, will you, after a few questions?

Mr. Hepp: I don't believe I can and I don't mind that it be stricken.

The Court: May be stricken then.

Q. (By Mr. Hepp:): Just "yes" or "no," Mr. Wood, did you ever hear Mr. [207] Wright make any statement concerning marijuana?

A. Yes.

Q. Where were you when this statement was made? A. I was in his presence.

Q. Where was the—where did the conversation take place? A. In the cabin.

Q. In the cabin? That is the little white cabin that you have been talking about?

A. The white cabin I was talking about.

Q. Who was present at the time that this conversation was had?

A. Everett and myself and Tam.

Q. Would you state those again please?

A. I said Raymond Wright and myself and Tam.

Q. When—— (Interrupted.)

Mr. Hurley: What was that last name?

Mr. Hepp: Tam.

Mr. Hurley: Did he say that was Everett Fields?

Witness: That's right.

Q. (By Mr. Hepp): Can you fix the month and

(Testimony of Nathaniel Wood.)

the year and the week or date that this conversation took place?

A. I don't think I can. [208]

Q. Well, during—can you fix the month?

A. It was in July.

Q. Was it in the early part or the latter part of July? A. Latter part of July.

Q. And that is of this year?

A. This year.

Q. What did Raymond Wright say concerning—— (Interrupted)

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; no proper foundation laid.

The Court: Objection overruled.

Mr. Hurley: Not within the issues of the case and an attempt to prove a crime other than that charged in the indictment.

The Court: Overruled.

Q. (By Mr. Hepp): Would you answer the question? What did Mr. Wright say?

A. He was telling how he wanted it rolled.

Q. How he wanted what rolled?

A. Marijuana.

Q. Who did he tell that to? A. Tam.

Q. Can you recall what he said in regard to rolling it?

A. Well, he told him to try to get all the—many as he [209] could out of a can.

Q. Mr. Wood, at any time while you were at the Club 69 and in the presence of either of the

(Testimony of Nathaniel Wood.)

defendants, Raymond Wright or Vernestine Wright, did you ever see any marijuana smoked?

Mr. Hurley: We object to that—— (Interrupted.)

Mr. Hepp (To witness): Just a minute.

Mr. Hurley: Just a minute. Incompetent, irrelevant and immaterial; no proper foundation laid; not within the issues and an attempt to prove something that is not charged in the indictment.

The Court: Objection overruled.

Q. (By Mr. Hepp): Would you answer the question? A. I did.

Q. On how many occasions did you see marijuana smoked out there in the premises of the Club 69 in the presence of the defendants?

Mr. Hurley: Same objection.

Witness: Oh, great many times.

Q. (By Mr. Hepp): Now, Mr. Wood, during any time when you were at the Club 69 and in the presence of Raymond Wright, did you ever see any marijuana sold at the Club 69? [210]

Mr. Hurley: Same objection.

Mr. Hepp (To witness): Just a minute, don't answer.

The Court: Same ruling.

Q. (By Mr. Hepp): All right, answer the question, please. A. I did.

Q. Mr. Wood, at any time when you were at the Club 69 and in the presence of the defendant,

(Testimony of Nathaniel Wood.)

Mrs. Vernestine Wright, did you ever see any marijuana smoked—sold at the Club 69?

Mr. Hurley: Same objection.

Mr. Hepp (To witness): Just a minute.

The Court: Same ruling.

Witness: I did.

Q. (By Mr. Hepp): Who sold the marijuana then, Mr. Wood? A. Vernestine.

Q. Did you ever see Raymond Wright sell any marijuana? A. Sure, I saw him sell it.

Q. More than once? A. More than once.

Q. Did you smoke any while you were out there, Mr. Wood? A. Never smoke any.

Q. Pardon? [211]

A. I never smoked any.

Mr. Hepp: That's all, you may question the witness.

Cross-Examination

By Mr. Hurley:

Q. Mr. Fields—Mr.—is it Wood or Woods?

A. Wood.

Q. How old are you, Mr. Woods?

A. 34.

Q. Didn't you testify here two or three days ago that you were only 30?

Mr. Hepp: Now, your Honor, I object to that. I think that matter was all straightened out. I don't think it has any bearing to the issues of this case.

The Court: He can answer it.

(Testimony of Nathaniel Wood.)

Witness: I did.

Q. (By Mr. Hurley): Now you are 34?

A. I explained it out the other day.

Q. You didn't know how old you were then, but you know now, is that right?

A. I knowed the other day.

Q. You said—— (Interrupted.)

A. That's why I straightened it out. [212]

Q. You said you were 30, didn't you?

A. Sure, I said I was 30, but—— (Interrupted.)

Q. Now you claim you are 34.

The Court: Let him finish his answer.

Mr. Hurley: All right.

The Court: What is the rest of your answer. You said you were 30 but, but.

Witness: But in the excitement and everything, I straightened myself out and I told you I was 34.

Q. (By Mr. Hurley): You were very excited when you testified before, were you?

A. A little nervous.

Q. More so than you are now?

Mr. Hepp: I object to that. That's a pure—calling for a conclusion, a pure conclusion, your Honor.

The Court: Sustained, objection sustained.

Mr. Hurley: Save an exception.

Q. (By Mr. Hurley): You say you saw Mrs. Wright sell marijuana? A. I did.

Q. Who to? [213]

A. Some guy or another. I don't know his name.

(Testimony of Nathaniel Wood.)

Q. What did he look like?

A. (Pause.) Will you repeat that question again?

Q. I say, what did he look like?

A. He was a man. That's all I can tell you.

Q. As near as you can tell, that's all you know?

A. A man.

Q. When was it? A. Some time in July.

Q. Who was there when she sold it?

A. Oh, great many people there.

Q. Great many people? How many?

A. Oh, I would say 10 or 12.

Q. Ten or twelve? Did you know any of them that saw her sell it? A. No.

Q. You didn't know any of the people that were in there? A. She wasn't in the club.

Q. Where was she?

A. She was in the trailer.

Q. And then there were 10 or 12 people in the trailer when she sold it?

A. Around the building.

Q. Where were these people? Where were they?

A. In the club. [214]

Q. They were in the club when she sold it, is that right? A. That's right.

Q. And she sold it in the trailer and these people were there in the club? A. That's right.

Q. Where did she sell it, in the club or in the trailer?

A. In the trailer. The fellow come down to where she had it.

(Testimony of Nathaniel Wood.)

Q. What?

A. The fellow come to the trailer. She had it.

Q. Had what? A. Had the marijuana.

Q. How did she sell it to him if he already had it when he went there?

A. He didn't have it. I didn't say he had it.

Q. You said he had marijuana when he went to the trailer?

Mr. Hepp: Now, your Honor, this witness did not say that. Counsel is trying to argue—— (Interrupted.)

Q. (By Mr. Hurley): Well, what did you say?

Mr. Hepp: Just a minute, Mr. Hurley. I object to this unless counsel can straighten out these questions and ask questions that this witness is capable of answering and not paraphrasing words—— (Interrupted.)

Mr. Hurley: I am not responsible for [215] his capabilities, your Honor. I have a right to cross-examine.

The Court: Well now, you asked him a question, haven't you?

Q. (By Mr. Hurley): Where did you see Mrs. Wright sell marijuana?

A. It was in the trailer where she give marijuana.

Q. Who was there?

A. The fellow that bought it.

Q. Anybody else?

A. No, wasn't nobody in there. I was on the outside there working.

(Testimony of Nathaniel Wood.)

Q. And how do you know she sold it if you weren't in there?

A. I saw him come out with it in his hand—handed it to him?

Q. What?

A. I saw when she handed it to him.

Q. Was the door open to the trailer?

A. The door was open to the trailer.

Q. Yes and you were standing out looking in?

A. I was working right in front of the trailer door.

Q. What were you doing?

A. Just digging a cesspool.

Q. Right in front of the trailer? [216]

A. On the side.

Q. What? A. In front of the door.

Q. Right in front of the door, digging a cesspool, is that right?

A. That's why I was looking.

Q. I see. You said you were digging a cesspool, is that right? A. That's right.

Q. Right in front of the trailer.

A. That's why I was working right in front of the trailer door.

Q. That's where the cesspool was?

A. No. The cesspool was off the trailer door, but my work was in front of the trailer door.

Q. What were you doing?

A. Fixing the cesspool.

Q. All right. And what kind of a looking man was this that you saw go in the trailer?

(Testimony of Nathaniel Wood.)

A. Oh, he was about my height. That's all I could give you, about my height.

Q. Do you know what color he was?

A. He was a colored man.

Q. He was? Did you ever see him before?

A. No, I never saw him before. [217]

Q. Did you ever see him afterwards?

A. No.

Q. Did you ever give a description of him to the Marshal? A. No, I haven't.

Q. Did you ever make an attempt to find what his name was? A. No.

Q. You don't know anything about him? How do you know that Mrs. Wright sold him marijuana?

A. Because I was looking at him.

Q. What? A. I was looking at him.

Q. And what did she give it to him in?

A. Repeat that question again.

Q. I say, what did she give it to him in?

A. Just give it, just handed it in her hand and she give it to him.

Q. Just poured it out of her hand into his hand, is that right?

A. I don't know whether she poured it out but she handed it to him.

Q. What? A. She handed it to him.

Q. And did you—where did she have it when she handed it to him? [218]

A. Somewhere in the trailer.

Q. And what did she give it to him in?

Mr. Hepp: I object, your Honor. I believe he

(Testimony of Nathaniel Wood.)

had asked that question before, the very same words.

The Court: Objection overruled.

Q. (By Mr. Hurley): Just answer the question.

A. She didn't give it to him in anything. She had it in her hand and handed it to him.

Q. Where did she get it?

A. Somewhere in the trailer.

Q. How much did she have in her hand?

A. I don't know. All I saw was one.

Q. One what? A. One stick.

Q. What do you mean by "one stick"?

A. One cigarette.

Q. Oh. And describe that, will you, that cigarette.

A. It is a little bit larger than a match stick. It is in brown paper.

Q. Well, then all you saw was a brown paper, wasn't it? A. (Pause.)

Q. You didn't see anything inside the paper, did you?

A. No, I didn't see anything inside the [219] paper.

Q. So, you saw him go in there and get a little piece of brown paper rolled and about how long was it? A. As large as a cigarette.

Q. What?

A. About as long as a cigarette.

Q. And was there tobacco in it?

A. Twisted on each end.

Q. I say, was there tobacco in it?

(Testimony of Nathaniel Wood.)

A. I couldn't see through it.

Q. You don't know what was in it, do you?

A. Repeat that question again.

Q. I say, you don't know what was in it?

A. No, I don't.

Q. Well, then, why did you say you saw her give him marijuana?

A. Because I saw many like that before, broke them off and looked at them.

Q. I see. You have seen little brown paper rolled with tobacco or marijuana?

A. Marijuana.

Q. You have seen them rolled with tobacco in it, haven't you? A. Not many.

Q. You never saw brown paper with tobacco rolled in it? A. Repeat that question. [220]

Q. I say, you never saw any brown paper with tobacco rolled in it? A. Oh, yeah.

Q. Lots of them, haven't you?

A. Not many.

Q. Not many? A. No.

Q. Not as many as marijuana?

A. No. I haven't saw not many of them.

Q. Did you ever smoke marijuana?

A. Never smoked it in my life.

Q. What?

A. Never smoked it in my life.

Q. Did you ever see any rolled? A. Sure.

Q. Who rolled them? A. Tam rolled them.

Q. Who is Tam? A. Vernestine's cousin.

Q. What is his name?

(Testimony of Nathaniel Wood.)

A. Oh, I know we called him Tam. I think his right name is Everett Fields.

Q. Was he living in this cabin with you?

A. In the cabin with me.

Q. What? [221] A. That's right.

Q. In the cabin with you?

A. That's right.

Q. And you lived there and he lived there?

A. That's right.

Q. And that is where the officers found the can, an empty can, wasn't it? A. I don't know.

Q. Well, you know what cabin it was, don't you? A. I know what cabin I stayed in.

Q. What one was it?

A. The little white cabin on the west side of the trailer.

Q. And you and Everett Fields lived there, didn't you? A. That's right.

Q. And how long had you lived there prior to the 4th day of August of this year?

A. Prior to the 4th day of August? I was in jail the 4th day of August.

Q. Well, you lived there prior to that time, didn't you? A. (Pause.)

Q. I say, you lived there prior to the 4th of August, didn't you? A. Yeah.

Q. How long in this cabin?

A. I couldn't tell you exactly. [222]

Q. You weren't here on the 4th of August?

A. I was here.

Q. What?

(Testimony of Nathaniel Wood.)

A. I was here the 4th of August. I was in jail.

Q. That's what I thought. What were you in there for?

A. I was arrested and brought back.

Q. What?

A. I was arrested and brought back from the border.

Q. You were accused of stealing some money from Mr. Wright, weren't you?

A. That's right.

Q. When did you get out?

A. I don't know exactly the date I got out.

Q. You don't remember?

A. Don't remember.

Q. The 5th, wasn't it, of August?

A. I still don't know exactly.

Q. Do you know when you left here after you got out of jail?

A. No, I don't remember.

Q. What?

A. I don't remember.

Q. How did you go out?

A. Drove out.

Q. What? [223]

A. I rode out with the highway patrol.

Q. After you got out of jail, huh?

A. That's right.

Q. And who went with you?

A. William Jones.

Q. Who else?

A. Crossing the state line—— (Interrupted.)

Q. I say who else left with you?

A. Left? Fairbanks? With me?

Q. Yes.

A. Highway patrol.

Q. Besides you and Jones?

(Testimony of Nathaniel Wood.)

A. That's right.

Q. Nobody else? A. Nobody else.

Q. How did Vanada Donaby leave?

A. I don't know.

Q. She didn't leave with you?

A. She did not.

Q. She was leaving with you though when you got arrested, wasn't she? A. That's right.

Q. And you filed a law suit against Mr. Wright didn't you, just the other day?

Mr. Hepp: Now, I object. I object [224] to that, your Honor.

The Court: Objection overruled.

Q. (By Mr. Hurley): Just answer the question. A. I did.

Q. You don't like him very well, do you?

A. I don't have a thing against him.

Q. Now, you said you saw Mr. Wright sell some marijuana cigarettes? When was that?

A. Club 69.

Q. When?

A. When? I don't know the date.

Q. About when? A. Sometime in July.

Q. Who did he sell them to?

A. Some gentlemen.

Q. What? A. Some gentlemen.

Q. When? How many?

A. I don't know. I was in the bed.

Q. What bed? A. The bed I sleep.

Q. Out in the cabin? A. Out in the cabin.

Q. And he was in the 69 Club? [225]

(Testimony of Nathaniel Wood.)

A. He was in the cabin.

Q. Oh. I thought you said he was in the 69 Club?
A. I didn't say the 69 Club.

Q. Oh, it was in the cabin, was it?

A. That's right.

Q. And in your cabin? A. That's right.

Q. Who else was there?

A. Everett Fields was in there.

Q. And you? A. That's right.

Q. And who came in and bought the cigarettes?

A. Some gentlemen. I don't know.

Q. What kind of a looking man was he?

A. He was a soldier.

Q. Was he a colored boy or white?

A. White.

Q. And did you ever find out who he was?

A. No, sir.

Q. Did you ever tell the officers about him?

A. Repeat that question again.

Q. Did you ever tell any of the officers about him?
A. No, I did not.

Q. Why?

A. This Mr. Wright—I come up to make money and just [226] make enough money to pay my expenses back and what I had spent. I heard him several times offer—say that he had everything sewed up—— (Interrupted.)

Q. Now, just a minute! I don't want you to start in telling something—just answer the question. I asked you a question. Why didn't you tell the officers about this man coming there?

A. I am coming to the point now.

(Testimony of Nathaniel Wood.)

Q. Well, just answer it. Why didn't you tell them?
A. I didn't tell them.

Q. Why?

A. On account of I heard him say that he had paid off so many around here. I didn't want to get myself involved in no kind of trouble or anything. I wanted to stay out of it.

Q. When did you make up your mind to tell them?
A. After he had me arrested.

Q. I see. After you were in jail, is that right?

Mr. Hepp: I object to that. He is just putting words and paraphrasing—— (Interrupted.)

Mr. Hurley: I got a right to cross-examine.

The Court: Objection sustained.

Mr. Hepp: Well, I don't mind—— (Interrupted.)

Mr. Hurley: Well, I'll put it this way. [227]

Q. (By Mr. Hurley): Was the first time you ever mentioned it after you were put in jail or before?
A. Repeat that again.

Q. I say, was it after you were put in jail or was it before that that you first mentioned this man buying cigarettes to the officers?

A. I told my friends and Bill Jones—— (Interrupted.)

Q. Now just answer the question. I am asking you what you told the officers.

A. Afterwards.

Q. After you was put in jail? You had never mentioned it before that to the officers, is that right?

A. That's right.

(Testimony of Nathaniel Wood.)

Q. And when did you—you know Vanada Donaby, do you? A. I do.

Q. And when did you see her after you left Fairbanks? A. Repeat that question again.

Q. I say, when did you see her after you left Fairbanks after you got out of jail?

A. Oh, I didn't see her no more. I didn't see her no more until we was on our way.

Q. What?

A. About four weeks ago. This Saturday will be four weeks ago. [228]

Q. Where did you see her?

A. In Seattle.

Q. Now, how many times did you see Mr. Wright sell cigarettes?

A. I couldn't say how many times. A great many times.

Q. How many?

A. I never did count the times that I saw him.

Q. Have you any idea? A. No, I don't.

Q. Do you know anybody that you claim he sold them to?

A. Repeat that question again.

Q. Do you know anybody that you claim he sold them to so we can get their names?

A. No, I don't.

Q. What? A. I don't know their names.

Q. You know what they looked like?

A. All I know is they were people; they was human.

(Testimony of Nathaniel Wood.)

Q. And can you tell us about any of them so that we can try to find out who they were?

A. No, I can't.

Q. Were they colored people or white?

A. They was white.

Q. What? A. They was white. [229]

Q. All white? A. And colored.

Q. What? A. White and colored.

Q. And was there ever as many as three?

A. It was more than that.

Q. How many? A. I can't tell how many.

Q. About how many? A. (Pause.)

Q. Well, how many would you think you saw?

A. Every day, ten or twelve.

Q. Whereabouts were you when you saw him sell them?

A. Around the club, in the house where I stayed.

Q. Where?

A. In the cabin where I stayed at.

Q. In the cabin? A. That's right.

Q. And that's where they were sold, in the cabin that you and this other man were living in, is that right?

A. That's where I seen them sold.

Q. Did you ever see any sold in the Club 69 proper?

A. Oh, I have seen lots of them in the Club 69.

Q. And where were they kept?

A. All around. Some under the chair, some——

(Interrupted.) [230]

(Testimony of Nathaniel Wood.)

Q. They were kept where?

A. Underneath the chair.

Q. And where else?

A. On the cash register.

Q. And underneath the chair?

A. And around the cash register.

Q. What kind of a place was there under the chair that they were kept? A. I don't know.

Q. What? A. I don't know.

Q. Well, didn't you see them?

A. Just underneath the chair.

Q. I say, but what were they kept in underneath the chair?

Mr. Hepp: Your Honor, there is no evidence that they were kept in anything under the chair. I don't think he has addressed a fair question.

Mr. Hurley: I have a right to cross-examine.

The Court: Objection overruled.

Q. (By Mr. Hurley): What were they kept in underneath the chair?

A. They was all together.

Q. What?

A. They was all together, a piece of rubber around them. [231]

Q. And where were they kept? What was there? A container there under the chair?

A. No container.

Q. Just laying on the floor?

A. That's right.

Q. And they had a rubber around them?

A. That's right.

(Testimony of Nathaniel Wood.)

Q. And then if somebody would come in, why they would go—Mr. Wright would go and pick these up off the floor and take one and put the rubber back and throw it on the floor again, is that right? A. I don't know.

Q. Didn't you see him sell any?

A. I didn't see him sell any in the Club 69.

Q. I see. How were they kept in this cabin that you lived in? A. Rubber band around them.

Q. What?

A. Rubber band around them. They was rolled up.

Q. What around them?

A. A rubber band was around those and they was rolled up.

Q. And where were they kept?

A. Some of them under the bed, some on the shelf in the clothes closet.

Q. And how many men did you say you saw come in there? [232]

A. I didn't say exactly how many men.

Q. About how many men?

A. A great deal of men. I didn't count them.

Q. And was Mr. Everett Fields in there, too?

A. That's right.

Q. How much they pay for them?

A. Two and a half, one and a half.

Q. What?

A. Two and a half, one and a half.

Q. A bundle? A. No, a stick.

(Testimony of Nathaniel Wood.)

Q. And what did they do with them after they bought them?

A. I never looked and see what they did with them.

Q. What?

A. When they would get them, they would walk out because I was in bed.

Q. Were you always in bed when this happened?

A. At night.

Q. What? A. At night I would be in bed.

Q. You say you worked over at Mr. Wright's place where he was building a house?

A. That's right.

Q. What was Mr. Wright doing there?

A. Oh, he would come over there sometime. Sometime he [233] would pick up a hammer and nail a few nails and he would be gone. He never stayed over there but an hour, hour and a half, something like that.

Q. While you were there?

A. That's right.

Q. And who else was working there?

A. He had a carpenter working for him.

Q. What?

A. He had a carpenter working for him there.

Q. And didn't he go over there and help the carpenter? A. No.

Q. What?

A. No. I was helping the carpenter.

Q. Mr. Wright didn't do any work?

A. No.

Q. What?

(Testimony of Nathaniel Wood.)

A. He didn't do any work while I was working over there.

Q. Now, who was working there besides you?

A. This fellow named Sims was working there.

Q. Who? A. Sims.

Q. Sims? A. Sims is right.

Q. Is he a colored man?

A. Colored man. [234]

Q. Same as you are? Who else?

A. Everett Fields was working there.

Q. Who else? A. That's all.

Q. And you? A. That's right.

Q. Just the 3 of you? A. That's right.

Q. And did you finish the house before you left? A. I did not.

Mr. Hurley: That's all.

Mr. Hepp: That's all.

(The witness left the witness stand.)

Mr. Hepp: I will rest the government's case, your Honor.

Mr. Hurley: I wonder if we could have about a 10 minute recess. I would like to make a motion at that time.

The Court: Well, I will let you make your motion first. The jury will be excused and remain in the hallway until called.

(The jury left the court room.)

(At this time, Mr. Hurley presented a motion to the court for an instructed verdict of not guilty and a judgment of acquittal for the

reason that the [235] evidence is insufficient to go to the jury; no evidence to show that the cigarettes were in the possession of either one of the defendants; no evidence that the defendants owned the premises or that they were in possession of the cabin in which the can was found and that there was no competent evidence sufficient to go to the jury with regard to the crime charged in the indictment and that the only evidence introduced is evidence of something of which the defendants were not accused of and that the evidence is entirely insufficient to support the allegations contained in the indictment.)

(Mr. Hepp presented argument to the court resisting the motion.)

(Mr. Hurley presented further argument.)

The Court: Motion denied.

Mr. Hurley: Could we have about a 10 minute recess?

The Court: Yes, we will take a recess until five minutes after.

Clerk of the Court: Court is recessed until five after four.

(At this time a short recess was taken.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.) [236]

Clerk of the Court: They're all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Hurley: We are ready, your Honor.

The Court: Very well, call your witness.

Mr. Hurley: I call Mrs. Wright, Vernestine Wright.

VERNESTINE WRIGHT

called as a witness in her own behalf, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hurley:

Q. What is your name?

A. Vernestine Wright.

Q. And where do you live, Mrs. Wright?

A. I live at 23rd and Abigail.

Q. Here in Fairbanks? A. Yes.

Q. How long have you lived here?

A. Oh, about three years and 9 months.

Q. And Mr. Wright, Raymond Wright, sitting here is your husband, is he? [237] A. He is.

Q. Do you have any children? A. I have.

Q. How many? A. Two.

Q. How old are they?

A. My little girl is 3 and my little boy is 2.

Q. Where were they born?

A. Fairbanks, Alaska.

Q. Where were you born, Mrs. Wright?

A. Galveston, Texas.

(Testimony of Vernestine Wright.)

Q. How old are you? A. Twenty-nine.

Q. Was either your mother or father colored people? A. My mother was half colored.

Q. Who was you father? A. Irish.

Q. Were you raised with colored people?

A. I was.

Q. Go to a colored school? A. I did.

Q. Where did you first meet Mr. Wright?

A. Texas.

Q. How old were you then?

A. About 14. [238]

Q. And you have known Mr. Wright ever since then? A. I have.

Q. Were you in school together? A. No.

Q. Where were you married?

A. Ogden, Utah.

Q. You heard the testimony of all the witnesses that have testified here? A. I have.

Q. You have been present at all the evidence?

A. Yes.

Q. Did you or your husband ever have any marijuana? A. Certainly not.

Q. Did you ever sell any?

A. I have never sold marijuana.

Q. Did he ever sell any that you know of?

A. To my knowledge, no.

Q. On the 4th of August of this year, were you out there when the marshals came out?

A. I was.

Q. And where were you?

A. I was lying in bed.

(Testimony of Vernestine Wright.)

Q. What? A. I was lying in bed.

Q. Where? [239] A. In the silver trailer.

Q. And how did you find out the officers were there?

A. I think Deputy Marshal Martin knocked and as he knocked, he entered.

Q. And what did you do then?

A. Well, I wanted to know what he wanted and he asked me to get up and put on my clothes.

Q. What did you do then?

A. I slipped on a dress and he escorted me over to the Club 69 where Mr. Barber read me a search warrant inside of the building.

Q. That was Deputy Marshal Barber, was it?

A. That's right.

Q. And did they proceed there to search the premises, Mrs. Wright?

A. They did very thoroughly.

Q. Did they search any other places besides the 69 Club proper?

A. Well, I learned later they did.

Q. What? A. I learned later they did.

Q. But you were in the 69 Club after you left the trailer cabin where you were in bed until they left, is that right, Mrs. Wright?

A. Until who left? [240]

Q. What?

A. I was in the Club 69 until I think Mr. Greer escorted me back to the trailer to put on my clothes to go to town.

Q. Oh, they arrested you then?

(Testimony of Vernestine Wright.)

A. Well, they took me to town.

Q. They brought you into town? A. Yes.

Q. And you put on your clothes?

A. I did.

Q. And did you make any statement to any of the officers in regard to what they claimed they found in there, in the Club 69?

A. I think I told Officer Barber, the District Attorney and the Marshal—— (Interrupted.)

Q. No, I mean—— (Interrupted.)

A. There you mean?

Q. Not here in town. Out there?

A. I told them I had never seen marijuana, I had never used marijuana in any form and I would stand any test the State would put me before.

Q. Do you smoke even tobacco cigarettes?

A. I have never smoked in my life.

Q. Does your husband smoke tobacco cigarettes?

A. I have never seen him smoke.

Q. What? [241]

A. I have never seen him smoke.

Q. Were you present when—in the room—when Mr. Barber, the Deputy Marshal, claims that he picked up some cigarettes behind a chair?

A. I was.

Q. Did you see him pick them up?

A. I saw when he showed them to me.

Q. But you didn't see him pick them up?

A. No, I couldn't say I did.

Q. You don't know how they got there?

Mr. Hepp: Your Honor, I am going to object to

(Testimony of Vernestine Wright.)

these leading questions. I think these—I think this witness should testify to what she knows.

The Court: Objection sustained.

Q. (By Mr. Hurley): Do you know how they got there behind that chair, Mrs. Wright?

A. I don't know.

Q. Now, when was the last time that you were in the place prior—in the 69 Club proper where they claimed they found these cigarettes—before they came out there to make this search?

A. I can't state the exact hour and the time I left the Club 69 but it was between four a.m. that morning and five-thirty. [242]

Q. That is when you closed—when you left?

A. That is when I left.

Q. Was there anybody in there when you left?

A. There was.

Q. Who was there?

A. Opal Weldon and Elgie Fields and David Weldon.

Q. Anybody else? A. That's all.

Q. And was there any arrangement made by you for somebody to clean the place up before opening it up later in the day, Mrs. Wright?

A. There was.

Q. And who did the janitor work to clean the place?

A. David Weldon had to do the janitor work.

Q. What?

A. David Weldon had been doing the janitor work.

(Testimony of Vernestine Wright.)

Q. And was there anybody else helping him that particular day?

A. Elgie Fields was helping them because he was going to leave town the following week.

Q. Who was going to leave?

A. David Weldon was going to leave.

Q. And Everett Fields?

A. Elgie Fields.

Q. Elgie Fields? Is he any relation to [243] you? A. He is.

Q. What relation? A. Cousin.

Q. He is a cousin of yours? A. Yes.

Q. I see. And did he work there that day cleaning the place before the officers came?

A. Yes. He was there when the officers arrived.

Q. And this—did you hear the testimony of Nathaniel Wood? A. I did.

Q. This cabin that he says he was living in, was there anybody else living in that cabin with him at the time he was living there? A. There was.

Q. Who? A. Elgie Fields.

Q. I see, and is that the cabin where the officers—some officer testified that he found a can, a tobacco can there? A. It was.

Q. You heard the testimony?

A. I heard the testimony.

Q. And that was the cabin?

A. That was the cabin. [244]

Q. What was Mr. Wright doing prior to the 4th of August of this year?

(Testimony of Vernestine Wright.)

A. Well, he had been assisting the carpenter with the building of the house for some time, for over a month, almost two months.

Q. What house—what kind of a house was that?

A. Well, we are building a private home.

Q. And how far was that from the 69 Club where you were building your home?

A. Approximately about 8 blocks.

Q. And how long had it been, if you remember, since Mr. Wright had been with you in the trailer cabin prior to the 4th of August of this year?

A. Well, that's a long time to remember. I know definitely that Mr. Wright hadn't been on the premises in a day and a half at least because I had to go over where he was working.

Q. And where were your children at that time?

A. The were in San Francisco.

Q. How did they happen to be out there?

A. My little boy has been to a specialist for over a year now.

Q. What was the trouble?

A. He was a premature baby, a 6 month's baby and he had quite a few difficulties. [245]

Q. And both the children were outside when this raid took place?

A. Yes.

Q. I see. And—excuse me just a minute, your Honor. I would like to see those pictures (handing document to witness). Calling your attention to government's exhibit "D," I will ask you to state, if you know, what that is, Mrs. Wright.

A. You mean in the picture?

(Testimony of Vernestine Wright.)

Q. Yeah. What is the picture of?

A. Well, a chair, some beer, a stool, a lamp and also a couch.

Q. Do you recognize it as a part of the interior—— (Interrupted.) A. I do.

Q. (Continuing.) ——of the 69 Club?

A. Yes.

Q. I notice you say—have you ever seen this picture before? A. You mean the interior?

Q. No, this picture? A. No, I haven't.

Q. I notice you say there is some beer down in the lower left hand corner of the picture, some cans of beer, is that right? [246] A. Yes, sir.

Q. And was that beer down there where it is shown in the picture at the time the officers came out there and made the raid?

A. No, it wasn't.

Q. Where was it?

A. In the refrigerator.

Q. How did it get out on the floor?

A. Mr. Barber put it there.

Q. Prior to taking this picture, he put the beer down here on the floor, did he, as it is there?

A. Yes, before the picture was taken.

Mr. Hurley: I think that's all. You may cross-examine.

Cross-Examination

By Mr. Hepp:

Q. How long have you lived at 23rd and Abigail, Mrs. Wright?

(Testimony of Vernestine Wright.)

A. Since, let's see, oh, about 5—about 6 weeks now, I'm sure.

Q. Prior to that time, where did you live?

A. I lived at the Club 69.

Q. In a little trailer?

A. In the silver trailer, to be sure. [247]

Q. You know where David Weldon is now?

A. I don't know the exact place where he is.

Q. Is he here in Fairbanks?

A. No, he isn't. He is in California.

Mr. Hepp: I have no further questions.

(The witness left the stand.)

Mr. Hurley: I call Elgie W. Fields.

Mr. Hepp: I wonder if I could just ask this last witness one more question, your Honor?

The Court: Yes.

(Mrs. Wright resumed the stand.)

Q. (By Mr. Hepp): I would like to ask, Mrs. Wright, have you ever been convicted of a crime?

A. Yes.

Mr. Hepp: That's all.

(The witness left the stand.)

Mr. Hurley: I call Elgie W. Fields.

ELGIE W. FIELDS

called as a witness in behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hurley:

Q. What is your name? [248]

A. Elgie Fields.

Q. And where do you live, Elgie?

A. 521-4th Street.

Q. How long have you lived in the vicinity of Fairbanks? A. Ever since June 19th, 1950.

Q. Are you acquainted with Mr. Wright and Mrs. Wright, the defendants? A. I am.

Q. How long have you known them?

A. Well, I have known her all my life and him, I know him ever since I was about 12.

Q. And you know Mrs. Wright a long time?

A. I have.

Q. Are you any relation to her? A. I am.

Q. What relation? A. Cousin.

Q. And were you out at the 69 Club on the 4th of August of this year when the officers came out there to make an arrest? A. I was.

Q. And had you done any work around there that day before they came out? A. I had.

Q. What did you do? [249]

A. Well, I was helping the janitor.

Q. Who was the janitor at that time?

A. David Weldon.

Q. I see. Is he a colored boy, too?

(Testimony of Elgie Fields.)

A. Yes, he is.

Q. Same as you are? A. That's right.

Q. And what work did you do there that day before the officers came out in regard to janitor work?

A. Well, that's all I did around there that day was scrub and wax the floor and change the furniture around.

Q. And was that in the main room of the 69 Club? A. It was.

Q. What time did you finish your janitor work that day, Elgie?

A. Oh, I finished the janitor work about twelve-thirty.

Q. About 12 o'clock?

A. About 12—12:30, between 12 and 12:30.

Q. And were you out there when the officers came in? A. I was.

Q. Now, when you did this janitor work, just explain to the jury everything that you did in regard to the floor?

A. Well, when I did the janitor work, we first moved all the furniture in one place, swept the floor, then scrubbed the floor, let the floor dry and waxed it. After [250] the wax dried, we run the buffer over it and then placed the furniture back.

Q. Now, were there any—was there a package of cigarettes on the floor after you finished your work?

A. No, there was nothing on the floor.

(Testimony of Elgie Fields.)

Q. Was there—did you see anything on the floor?

A. I didn't see anything on the floor.

Q. Except what you swept up?

A. That's right.

Q. When you got through, the floor was entirely clean, was it? A. That's right.

Q. If there had been a package of cigarettes lying behind a chair, would you have seen it?

A. I would have seen it.

Q. You moved all the chairs and furniture?

A. That's right.

Q. When you waxed the floor? A. I did.

Q. Were you in here when this Nathaniel Woods was—Wood or Woods—was on the witness stand?

A. I was.

Q. You know him, do you?

A. Yes, I do.

Q. And did you live in the same cabin he did out at the [251] Club 69? A. I did.

Q. You and he lived in this cabin that he spoke about, is that right? A. We did.

Q. And you heard him testify that there was marijuana out there in the cabin? You heard that testimony?

A. I heard him testify to that.

Q. Was there any marijuana out there that you knew about in that cabin?

A. I have never seen any.

Q. Never saw any? A. That's right.

(Testimony of Elgie Fields.)

Q. Did you ever see Mr. Wright have any marijuana in that cabin?

A. No, I have never—— (Interrupted.)

Q. What? A. No.

Q. Did you ever see any marijuana?

A. Well, I have seen what they claim was marijuana, but actually see marijuana, I have never seen—— (Interrupted.)

Q. What?

A. I have never actually seen marijuana.

Q. You have seen what people told you it was? Whereabouts was that? [252]

A. In California.

Q. In California? A. That's right.

Q. But you wouldn't be able to identify it?

A. No, I wouldn't.

Q. You never smoked any?

A. No, I haven't.

Q. And there was no marijuana in this cabin that you and this man Woods lived in?

A. Not that I know of.

Q. If there was any there, you didn't know about it, is that right?

Mr. Hepp: Now, your Honor, I believe these leading questions ought to stop.

Mr. Hurley: I say—— (Interrupted.)

The Court: You're quite right.

Mr. Hepp: Just a minute, let the Court rule, Mr. Hurley.

The Court: I agree with you but your objection comes too late. He has already answered.

(Testimony of Elgie Fields.)

Q. (By Mr. Hurley): Now, did you ever see any marijuana cigarettes sold out there or cigarettes rolled in brown paper sold?

A. No, never seen any.

Q. Were you there all during the time that this search [253] was being made? A. I was.

Q. Have you ever seen this picture before? (Handed document to witness.)

A. No, I have never seen the picture.

Q. This exhibit—let me see—“D.” That—is that a picture of the interior of the 69 Club, the main room? A. It is.

Q. You notice some beer cans down there in the left hand corner—— (Interrupted.)

Mr. Hepp: I object to this. I think counsel ought to ask this witness what he sees in that picture—— (Interrupted.)

Mr. Hurley: Alright.

Mr. Hepp (Continuing): ——instead of saying “You notice these beer cans” and “Isn’t this an interior of the Club 69,” question of that order. I object to the question.

Mr. Hurley: Alright, I will withdraw it.

Q. (By Mr. Hurley): What do you see in the picture on the lower left hand corner?

A. I see beer cans around there.

Q. Were they there when the officers came out there? [254] A. No, they wasn’t.

Q. Where did—how did they get there?

A. Mr. Barber put them down there.

Q. Just before this picture was taken?

(Testimony of Elgie Fields.)

A. That's right.

Mr. Hurley: That's all. You may cross-examine.

Cross-Examination

By Mr. Hepp:

Q. By whom are you employed, Mr. Fields?

A. At present I am unemployed.

Q. How long has it been since you have worked?

A. Oh, about 3 weeks.

Q. Where did you work last?

A. I worked out on the building of a house.

Q. Is that Mr. Wright's house?

A. Yeah, I was helping the carpenter.

Q. Oh, I see. How long has it been since you have had a regular job?

A. I am a disabled veteran.

Q. Does that interfere with your working for Mr. Wright, Mr. Fields?

A. Well, the kind of work I am doing, I am not doing hard work out there. I just hand the carpenter what he wants. I [255] can't do physical hard work.

Q. How old are you? A. Twenty-eight.

Q. When did you say you came to Fairbanks?

A. When did I say? June 19th, 1950.

Q. That is of this year? A. That's right.

Q. Are you married? A. No, I'm not.

Q. How often did you do janitor work out at the Club 69, Mr. Fields?

A. I helped David every day.

(Testimony of Elgie Fields.)

Q. For how long?

A. Well, from the time I got there until he left.

Q. Did you go ahead and do the janitor work alone then after he left?

A. That's right.

Q. Are you still doing it?

A. No, I am not still doing it.

Q. When did you quit?

A. I quit when they closed the club up.

Q. When who closed the club up?

Mr. Hurley: Now, we object to that as incompetent, irrelevant and immaterial; not within the issues of the case. [256]

The Court: Objection sustained.

Q. (By Mr. Hepp): You stated that you didn't see anything else on the floor except what you had swept up, is that right?

A. That's right.

Q. See any marijuana in which you swept up?

A. Not that I know of. I wouldn't know it if I did see it. When we swept up that morning, Dave swept the main room and I swept the side room, see? Nothing on the floor but cigarettes and match sticks and beer cans.

Q. And beer cans?

A. That's right.

Q. How many beer cans on the floor?

A. Well, I couldn't estimate how many was on the floor.

Q. Oh, about how many?

A. I couldn't even estimate.

Q. Five, fifty?

A. I would say—I couldn't make an estimation.

Q. Quite a big pile?

(Testimony of Elgie Fields.)

A. I couldn't estimate how many was on the floor.

Q. Do you know Opal Weldon?

A. Well, I have met her since I have been here.

Q. You say you were there at the Club 69 when the officers came? A. Yes, I was. [257]

Q. Where was Opal when the officers came?

A. Where she was, I don't know.

Q. Did you see her about that time?

A. No, I didn't.

Q. Did you see her shortly after that?

A. Yes, I saw her when the fellow got out of the room.

Q. When the fellow got out of the room?

A. Yes. He said he got it out of the room. You see, I was in the club part—— (Interrupted.)

Q. Was that fellow her husband?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; not within the issues of the case.

The Court: Objection sustained.

Q. (By Mr. Hepp): You say you had helped David Weldon scrub the floor, is that right?

A. Sweep, scrub and wax.

Q. Where was—do you know where David Weldon was when the officers came?

A. No, I don't.

Q. Did you see him around there?

A. When the officers came?

Q. Yes. A. No, I didn't. [258]

Q. Or shortly after that?

(Testimony of Elgie Fields.)

A. Yeah, he came up shortly after.

Q. Where did he come from? Do you know?

A. I couldn't tell you.

Q. From the outside?

A. Yeah, he came in from the outside.

Q. Where did you say you're living now?

A. 521-4th street.

Q. How long have you been living there?

A. Oh, about a week.

Q. Where did you live before that time?

A. I stayed on 23rd street.

Q. On what property did you stay on out there?

A. I stayed out there in the trailer.

Q. Whose trailer? A. Ray's trailer.

Mr. Hepp: I have no further questions.

Redirect Examination

By Mr. Hurley:

Q. What—you say you worked over on Wright's house where he is building a home?

A. I did.

Q. And what was he doing, Mr. Wright?

A. He would come over there and help us nail and putting [259] up boards.

Q. How long would he work at a time?

A. Sometimes he stayed all day with us.

Q. Work all day? A. That's right.

Q. It was his house? A. That's right.

Q. And he worked right along with the other men? A. Right along with us.

Mr. Hurley: That's all.

Mr. Hepp: That's all.

(The witness at this time left the witness stand.)

Mr. Hurley: I would like to call Oliver Richardson and I don't think he is in here yet. We tried to get him. That was one of the men that they testified had bought cigarettes or smoked cigarettes or something of the kind and I didn't know that his evidence was going to be necessary in this case and I want to put him on the witness stand. There is one other witness that I would like to get a hold of, Mr. Ripley. I think he is outside. He is in Los Angeles. I won't be able to get him at all but I want to put on Oliver Richardson.

Mr. Hepp: Is that the only other witness, Mr. Hurley? [260]

Mr. Hurley: Well, I think I may have one other. I am not sure. I have got to check these myself to see.

The Court: But you have a witness here you can put on now?

Mr. Hurley: I don't think so. No. I may have one more witness or two. If I do, they will be very short and I have got to have this man Oliver Richardson and I would like to talk to him before putting him on.

The Court: I don't like to waste this time.

Mr. Hurley: I don't want to, your Honor, but it won't take over five minutes to put—I may have one other witness.

The Court: Do you have a witness still here that you can put on to utilize this time?

Mr. Hurley: Oh, I might—Willa May Walters, is she here? Willa May Walters? Yeah, I will put Willa May Walters on. I didn't know she was up here, your Honor.

WILLA MAY WALTERS

called as a witness in behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hurley:

Q. What is your name?

A. Willa May Walters.

Q. Where do you live, Mrs.—Miss or Mrs.?

A. Miss.

Q. Miss Walters, where do you live?

A. 23rd and Mercer.

Q. Did you hear the testimony of the government's witness—witnesses in regard to your smoking marijuana cigarettes, Miss Walters?

A. I did.

Q. And did you ever smoke any marijuana cigarettes out at the 69 Club?

A. I never did.

Q. Did you ever see any marijuana cigarettes out at the 69 Club? A. Never.

Q. Did you ever see any marijuana out at the 69 Club? A. Never.

Q. Did you ever see any in the possession of either Mrs. Wright or Mr. Wright?

(Testimony of Willa May Walters.)

A. No, I didn't.

Q. Do you know Vanada Donaby?

A. I do.

Q. How long have you known her? [262]

A. Since sometime in May.

Q. Did you ever (pause)—did you ever have a conversation with Vanada Donaby when you were out at the 69 Club in regard to a man by the name—that went by the name of “W.O.”?

A. I—— (Interrupted.)

Mr. Hepp: Just a minute. I object. Just “yes” or “no” on that.

Witness: I did.

Q. (By Mr. Hurley): And when was this conversation? A. At the present, I can't recall.

Q. Well, about when was it?

A. Oh, it was just a few weeks before she was ready to leave.

Q. What?

A. A few weeks before she was ready to leave, maybe a couple or three.

Q. Before she left? A. Yeah.

Q. And who was present when you talked?

A. Just she and I.

Q. And what did she tell you in regard to this man by the name of “W.O.”?

A. The way the conversation came up, she was telling me how much she loved him and what happened to her while she [263] wasn't with him. She said he had went to Frisco and—— (Interrupted.)

Mr. Hepp: I believe I am going to object to this,

(Testimony of Willa May Walters.)

your Honor. I don't know how pertinent it is to the issues here. I don't know whether counsel is trying to use this as an impeachment of one of the witnesses or not. It might have a theory of admissibility on that ground. It seems to be very remote and disconnected with the issues of this trial. I am going to object to it, your Honor.

Mr. Hurley: I asked her that impeaching question if she didn't have this conversation with this witness in regard to this man she was with that went by the name of "W.O." and if he wasn't convicted of a dope charge and if she wasn't interviewed by the F. B. I. and didn't tell this witness that and she said no.

The Court: This witness said no?

Mr. Hurley: No. Vanada Donaby said no. This witness—I am asking her what the conversation was that I examined the other witness about for the purpose of impeachment.

Mr. Hepp: I believe, your Honor, that in matters of impeachment as to reputation of character for truth and veracity and honesty, I don't believe that it exceeds that scope. I don't know of any impeaching process [264] that you can bring everything in whether it is relevant or pertinent to the issues or not.

The Court: I believe you can ask her what conversation took place.

Mr. Hurley: I asked her where it was and who was present.

The Court: A witness may be impeached by

(Testimony of Willa May Walters.)

showing declaratory statements at another time. You should detail to the witness the conversation claimed and ask the witness whether or not she made that statement at a designated time and place with those present being named.

Q. (By Mr. Hurley): Did this Vanada Donaby, at the time and place you stated, did she talk to you about this man, "W.O."? Did she tell you that she had been living with this man; that this man was up on a narcotic charge and that the F. B. I. officers had interviewed her in regard to it?

A. Yes.

Q. She told you that?

A. She told me that.

Mr. Hurley: That's all, you may cross-examine.

Cross-Examination

Q. (By Mr. Hepp): How long have you known the Wrights?

A. Since January 7th, 1950.

Q. How did you come to know them?

A. I came to Fairbanks.

Q. Did you live out at their place?

A. Yes.

Q. Did you work out at their place?

A. I did.

Q. What kind of work did you do there?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; not within the issues of the—— (Interrupted.)

The Court: Objection overruled.

(Testimony of Willa May Walters.)

Q. (By Mr. Hepp): What kind of work did you do out there then?

A. I worked for Mrs. Wright in the house, whatever she had to do, as maid work, whatever you may call that.

Q. Maid work? A. That's all.

Q. Didn't you testify in a previous trial that you were a prostitute out there?

A. I had my own cabin rented, and what I do in my cabin don't concern anyone else.

Q. Did you ever work out at the Club 69——
(Interrupted.) [266]

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial. She has already answered the question.

The Court: Objection overruled.

Mr. Hurley: Save an exception.

Q. (By Mr. Hepp): Did you ever work out at the Club 69 as a prostitute, Willa May?

A. I never did.

Q. Did you ever work in any of the buildings that are adjacent to the Club 69 as a prostitute?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; not within the issues of the case.

The Court: Objection overruled.

Mr. Hurley: Save an exception.

Q. (By Mr. Hepp): Would you answer the question, please?

A. Would you ask me again, please?

Q. Did you ever work as a prostitute in any

(Testimony of Willa May Walters.)

of the buildings that are adjacent to the Cotton Club—or excuse me—the Club 69?

A. I did not.

Q. Are you familiar with the premises of the Club 69?

A. Yes. I have been in and out there. [267]

Q. How many buildings are there out there on those premises?

A. (Pause.) Well, three or four, I guess.

Q. How many buildings have you been in and out there?

A. Well, I have been in all of them doing maid work.

Q. Well, then, you should know how many buildings are there, isn't that right?

A. One is burned down and one is moved away so that's why I can't think right now. I don't remember just what is out there.

Q. How many buildings were there out there in January?

A. I wasn't at the Club 69 in January.

Q. When did you first go to the Club 69?

A. I don't recall what day it was.

Q. Do you recall the month? A. No.

Q. Was it in the spring?

A. I don't remember.

Q. Was it in the summer?

A. I don't remember (laughing).

Q. Was it in 1950? A. It was 1950.

Q. Did you—but you don't—can't remember whether it was in the spring or summer?

(Testimony of Willa May Walters.)

A. I sure can't. [268]

Q. And whether it was January or August?

A. I don't know.

Q. Were you out there at the premises of the 6—Club 69 when the officers came out there on August 4th? A. I was not.

Q. When did you first learn about that?

A. Oh, a few days later.

Q. Where were you living then, Willa May?

A. 23rd and Mercer.

Q. How long had you lived at 23rd and Mercer at that time? A. I don't remember just now.

Q. More than a week, though?

A. Oh, sure.

Q. More than 2 weeks?

A. I don't remember just how long, but I have been there for a while, quite a while.

Q. How long did you work for Mrs. Wright?

A. I don't remember just now.

Q. Was it more than a month?

A. I don't remember.

Q. More than 6 months?

A. I don't remember.

Q. Which would come closer, one month or 6 months?

A. I still say I don't remember. You want me to tell [269] you a lie?

Q. No, I don't want you to tell me a lie.

A. All right, I don't remember.

Q. Have you worked for anyone besides Mrs. Wright since you have been in Fairbanks?

(Testimony of Willa May Walters.)

A. Yes. I sometime go down to the Clark Rooms and clean up.

Mr. Hurley: What was that answer?

Witness: I sometimes go down to the Clark Rooms and clean up. Sometimes I go to the Clark Rooms and clean up.

Q. (By Mr. Hepp): You don't remember how many times you were down there?

A. Oh, no. I wasn't keeping up with the times that I went.

Q. Would you say it was few or many?

A. Quite a few times.

Q. Who did you work for when you went to the Clark Rooms to clean up? A. Jack Glass.

Q. When did you first meet Jack Glass?

A. When did I first meet Jack Glass? In '45 in Denver, Colorado.

Q. That was before you came here?

A. Yes, we were friends. [270]

Q. How long—do you know how long he has had the Clark Rooms? A. No.

Q. He has had them as long as you have known him up here?

A. Ever since I first seen him he did.

Q. Have you ever been steadily employed at the Clark Rooms?

A. Well, just doing maid work, day work.

Q. Has that been steady or just— (Interrupted.) A. When they needed me.

Q. Once a week maybe?

A. Twice. Maybe two or three times a week.

(Testimony of Willa May Walters.)

Q. How much would they pay you for that?

A. He paid me dollar and a half an hour.

Q. And you would work how many hours?

A. According to how many hours it took me to do the work there.

Q. What would it average?

A. Well, I don't remember.

Q. Did you ever work for anyone besides Glass?

A. Nobody but Jack Glass and Mrs. Wright.

Q. Did Mrs. Wright pay you wages?

A. Yes. Sure she did.

Q. You remember that?

A. Of course I remember that. [271]

Q. How much did she pay you a week?

A. Fifty dollars.

Q. Board and room, too? A. Yes.

Q. What were your duties?

A. Maid work. I told you.

Q. Well, I am asking you again. You worked steadily out there, did you, for \$50 a week?

A. Yes, I did.

Q. For approximately how long?

A. I don't remember.

Q. When did you start?

A. I don't remember that.

Q. Was it in January of this year when you first came up here? A. I don't remember.

Q. When you first came to Fairbanks, what was the first job you had, if you remember?

A. I don't remember.

(Testimony of Willa May Walters.)

Q. Do you remember whether you went to work when you came to Fairbanks?

A. (Laughing.) Oh, I just said I don't remember.

Q. But you have never worked out at the Club 69 as a prostitute? A. I never did. [272]

Q. Do you know a place called the Cotton Club?

A. That's where I had my cabin rented.

Q. Pardon?

A. That's where I had my cabin rented.

Q. Who owns the Cotton Club?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial; not within the issues of this case.

The Court: What is the relevancy of it?

Mr. Hepp: I believe her answer would establish that, your Honor.

The Court: Objection is sustained.

Q. (By Mr. Hepp): Miss Walter, is that the way you pronounce your name, Walter?

A. Walters.

Q. Have you been a prostitute since you came to Fairbanks?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial and not proper cross-examination.

The Court: Objection overruled.

Mr. Hurley: I would like to warn the witness that she doesn't have to answer if she don't want to.

Mr. Hepp: Your Honor, I don't believe [273] that's a crime under our code. I don't think she can claim self-incrimination.

(Testimony of Willa May Walters.)

Q. (By Mr. Hepp): Would you answer the question, please? A. (No answer.)

Q. Do you refuse to answer that question, Miss Walters? A. (Pause.) I do.

Mr. Hepp: That's all.

(At this time, the witness left the witness stand.)

Mr. Hurley: Now, if the Court please, in regard to Oliver Richardson, I have been unable to get him here. He is—just as soon as I found out that he had been testified about in regard to something we did not know anything about, I sent for him and I have been unable to get him in here and I understand he is out at the base. He works out at the base.

The Court: You can have him here tomorrow?

Mr. Hurley: Sure we can.

The Court: We will take an adjournment in a few minutes. Upon adjournment, the jury will be excused until ten o'clock tomorrow morning.

(At this time, the Court duly admonished the jury and at 4:50 p.m., November 9, 1950, the trial of [274] this cause was adjourned until ten o'clock a.m., November 10, 1950.)

Be It Remembered, that upon the 10th day of November, 1950, at the hour of 10 o'clock a.m., came the defendants in person and by their attorneys and the trial of this cause was resumed; the Honorable Harry E. Pratt, District Judge, presiding:

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

The Court: Jurors not engaged in the trial of this case will be excused until Monday morning at ten o'clock. Counsel ready to proceed with the trial of this case, 1509 criminal?

Mr. Hepp: Ready.

Mr. Benton: Yes, your Honor. I believe Mr. Hurley is not on hand. He will be here in about half a minute.

The Court: Call your witness.

Mr. Hurley: Yes, we are ready, your Honor. I would like to recall Mrs. Wright. You have already been sworn. Just take the stand. [275]

VERNESTINE WRIGHT

recalled as a witness in her own behalf, having been previously sworn, testified as follows:

Redirect Examination

By Mr. Hurley:

Q. Do you know where the cesspool was dug out at the—near the trailer that you lived in?

A. I do.

Q. And what direction was the cesspool from the trailer, Mrs. Wright?

A. North, facing north from the trailer.

Q. About how far north of the trailer was it?

(Testimony of Vernestine Wright.)

A. About 12 feet.

Q. And how many doors is there to the trailer?

A. Two.

Q. And what direction does the front door face?

A. East.

Q. East. And you say the cesspool is north of the trailer, is that right? A. Yes.

Q. And how big is the trailer?

A. It is 8 feet in width and 22 feet in length.

Q. And does the house—the front door open from the side, the long side of the trailer or from the end? A. From the long side. [276]

Q. I see. And you heard the testimony of Mr. Jones here, did you? A. I did.

Q. William Jones I think it is. And if he was working—(pause)—who was it that testified in regard to digging that hole, was that Jones or Woods?

A. Mr. Woods.

Q. Oh, Woods. And if he was working on the cesspool, would it have been possible, where it is located there, would it have been possible for him to see in the front door of your trailer?

Mr. Hepp: Just a minute. I object to that question unless it is established as to what sphere of work on the cesspool it could be. The work could have taken a workman 20 feet away from the actual place he was digging or something like that or getting tools from a work bench or something like that. I believe that question is very indefinite and can't possibly be answered without calling for a

(Testimony of Vernestine Wright.)

rash conclusion on the part of this witness and I object to it for that reason.

Mr. Hurley: His testimony, your Honor, was that he was digging this cesspool right in front of the trailer.

The Court: There would have to be some way to get things to the cesspool, wouldn't it? [277]

Mr. Hurley: He didn't say anything about getting things to the cesspool. He says he was working on the cesspool.

Mr. Hepp: Your Honor, he didn't say he was digging at the cesspool at that time. He says he was working around there and his work took him over close to the door. His own testimony stated the cesspool wasn't in front of the door.

Mr. Hurley: That wasn't the testimony.

Mr. Hepp: I would be happy to have the record read.

The Court: Well, we don't have time for that. I will allow the question if she can answer.

Q. (By Mr. Hurley): Just answer—if he was working where he said he was on the cesspool, would it have been possible for him to see the front door of your wanigan?

A. Mr. Hurley, if he had been working on any part of the north side he couldn't have seen the front—he couldn't have seen in the front door of the trailer. It was positively impossible.

Q. How long, Mrs. Wright, had you been living out there before the officers came out with this search warrant?

(Testimony of Vernestine Wright.)

A. I had been living out there since the first of May.

Q. And did you ever have any marijuana cigarettes in the [278] trailer or any place else out there?

A. I have never seen marijuana.

Q. Did any one ever come out there and buy any? A. Not from me.

Q. Did they ever buy any from your husband that you know of?

A. From my knowledge, no one ever bought or sold marijuana at the 69 Club.

Mr. Hurley: That's all. You may cross-examine.

Mr. Hepp: No questions.

Mr. Hurley: If the court please, we were unable to locate the witness that they testified about smoking marijuana cigarettes. We know he is at the base and we did everything we could to try to locate him and have been unable to get him here. I didn't issue a subpoena because I thought we could locate him ourselves probably faster than the officers could and I would like to have his testimony, but I have been unable to find out—unable to get a hold of him.

The Court: Call your next witness.

Mr. Hurley: And so with that reservation, we rest the defense, your Honor.

The Court: Any rebuttal?

Mr. Hepp: No, I have no rebuttal, your [279] Honor.

The Court: Very well. How much time do you want for argument?

Mr. Hepp: Well, an hour will be ample for me, your Honor.

Mr. Hurley: I think that will be sufficient.

The Court: Satisfactory then, an hour to the side. Very well, commence.

(At this time, Mr. Hepp presented argument to the jury.)

Mr. Hurley: May it please the Court, I would like to have an opportunity to read the court's instructions before I am required to make an argument in this case. From the remarks of counsel, I don't know just exactly what the instructions are going to be and I don't think it is fair to the defendants to attempt to argue the case without seeing them.

The Court: If you wish to come forward, I will tell you what they contain. They're not ready yet and the law doesn't require me to have them until after the arguments.

Mr. Hurley: I understand, your Honor, but in this particular case—— (Interrupted.)

The Court: Come forward, I will tell [280] you.

(The following proceedings were had out of the presence and hearing of the jury.)

The Court: Any particular point you want to know?

Mr. Hurley: Yes, I want to know about the limitation of the evidence as it was introduced by Mr. Hepp in regard to other crimes.

The Court: Well, I wasn't planning on any limitation—— (Interrupted.)

Mr. Hurley: And they can find him guilty on any of the evidence that has been introduced, either by the search warrant or—— (Interrupted.)

The Court: The indictment charges that on a certain day and I tell the jury that if they believe that each allegation in the indictment was proved, they should find him guilty and if they have a reasonable doubt about the—— (Interrupted.)

Mr. Hurley: And the time element is not limited to the actual time that the officers were there?

The Court: It is limited to the 4th day of August, yes.

Mr. Hurley: And they can find they had it out there before that?

The Court: They wouldn't, no. [281]

Mr. Hurley: Would it be limited to that evidence or be limited to the plaintiff showing intent or will it be—— (Interrupted.)

The Court: Whatever—— (Interrupted.)

Mr. Hurley: Even in the cases where other crimes are admissible, it is only admissible for absolutely one purpose and—— (Interrupted.)

The Court: If you have an instruction to present, I will consider it.

Mr. Hurley: I haven't any and I haven't had time to prepare any. I didn't know—this kind of came up suddenly.

The Court: Was there any other point that you wanted to know about?

Mr. Hurley: And they can convict on that other evidence?

The Court: It simply tells them that there must be—they must find that on the 4th day of August they had marijuana out there; on the 4th; not any other day.

Mr. Hurley: It is not any time before the——
(Interrupted.)

The Court: No, no, just the one date.

Mr. Hurley: Could I have about a 15-minute recess before I argue?

The Court: I will give you 10 minutes. [282]

Mr. Hurley: All right.

(The following proceedings were had in the presence and hearing of the jury.)

The Court: We will take a 10-minute recess.

(At the time, the Court again duly admonished the jury and a 10-minute recess was taken.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

(At this time, Mr. Hurley presented argument to the jury on behalf of the defendants.)

(At the conclusion of Mr. Hurley's argument, Mr. Benton presented further argument to the jury on behalf of the defendants.)

(At the conclusion of Mr. Benton's argument, Mr. Hepp presented further argument to the jury on behalf of the government.)

The Court: In a moment, we are going to take a recess until two o'clock at which time I will instruct the jury.

(At this time, the trial of this cause was recessed until 2 o'clock p.m., and the Court duly admonished [283] the jury.)

(At the time of 2 p.m., the trial of this cause was reconvened.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

Clerk of the Court: They're all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Hurley: We are ready, your Honor.

Mr. Hepp: Ready, your Honor.

The Court: (At this time, the Court read the instructions to the jury as follows:)

Members of the Jury

1.

(a) The indictment in this case charges: That on the 4th day of August, 1950, in the Fourth Judicial Division, Territory of Alaska, Raymond Wright and Vernestine Wright feloniously and knowingly had possession of and under their control a narcotic

drug, to wit: marijuana. From the above, the jury will note that the possession of a narcotic drug mentioned in the indictment must be known to a defendant at the time and place mentioned in said indictment in order that he or she may be guilty of the crime charged. [284]

(b) 1. The jury is instructed that the Narcotic Drug Act of Alaska, in section 40-3-2, Alaska Compiled Laws Annotated, 1949, provides in substance, that it shall be unlawful for any person to possess or have under his control any narcotic drug, except as authorized by said act.

(2.) The jury is instructed that during the year 1950, neither of the defendants either jointly or separately was authorized pursuant to the provisions of said Narcotic Act to have possession or control of the narcotic drug marijuana.

2.

You are instructed that the indictment is a mere accusation and is not in itself any evidence of the defendants' guilt.

Each defendant has pleaded not guilty to the matters set forth in said indictment. That plea puts in issue every material allegation of the indictment and puts the burden of proof upon the plaintiff to prove every such allegation beyond a reasonable doubt. Each defendant is presumed to be innocent and until the plaintiff has proven every material allegation of said indictment beyond a reasonable doubt, each defendant is entitled to the continued benefit of the presumption of his innocence.

3.

The jury is instructed: That although the [285] defendants are charged jointly in the indictment, of the crime therein described, such charge should be regarded by the jury as a several and individual charge against each defendant. However, proof beyond a reasonable doubt that defendants at the time and place mentioned in the indictment, knowingly had joint possession and control of a narcotic drug, to wit: marijuana, would have the same effect as if such proof was that each defendant then and there knowingly had sole and separate possession and control of a narcotic drug, to wit: marijuana.

4.

The jury is instructed:

(a) That as to either of the defendants, if the jury finds that the evidence in this case has failed to prove beyond a reasonable doubt any allegation of said indictment, as mentioned in instruction number 1 (a) herein, the jury should find such defendant not guilty of the crime charged in the indictment.

(b) The jury is instructed that if they find, as to either of the defendants, that the evidence in this case proves beyond a reasonable doubt that said defendant is guilty of the crime charged in the indictment and as set forth in instruction number 1 (a) hereof, the jury should find such defendant guilty of the crime charged in the indictment herein. [286]

5.

You are instructed that, as used with reference to the case now on trial:

The word "wilfully" means intentionally and deliberately, and implies knowledge on the part of the wrongdoer.

The word "unlawfully" means forbidden by law.

The word "feloniously" means the unlawful doing of an act which may be punished by imprisonment in the penitentiary, such as the crime charged in this case. The word "unlawfully" is included in the word "feloniously."

6.

In regard to the term "reasonable doubt," as used in these instructions and as defined by law, you are instructed as follows:

(a) If, after considering all of the evidence in the case, there is in the minds of the jury a fixed conviction that the defendant is guilty, the jury would be justified in considering that there is no reasonable doubt in the minds of the jury in the sense in which the term is used in these instructions.

(b) A doubt, to be such a reasonable doubt, must have an actual and substantial basis and not be a mere fanciful speculation. It cannot be a reasonable doubt if it [287] ignores a reasonable interpretation of the evidence. The rule of law as to a reasonable doubt is a practical rule for the guidance of practical jurors when engaged in the solemn duty of assisting in the administration of justice. To prove a proposition beyond a reason-

able doubt, the evidence must be such that it would convince a reasonably prudent man of its truth to such a degree of certainty that he would feel like acting upon such conviction in matters of the highest importance to his own personal interests.

In other words, a reasonable doubt is one which is reasonable in view of all of the evidence and such as arises upon an impartial comparison and consideration of all evidence and prevents the jury from being able to say candidly and truthfully that they have an abiding conviction of the defendant's guilt.

7.

The jury is instructed that they should bring to bear upon the consideration of the evidence or lack of evidence in this case all of the common knowledge of men and affairs which they, as reasonable human beings, have and exercise in every day affairs of life. Accordingly, you should draw from the evidence or lack of evidence in this case all deductions which appear to you to flow logically from the evidence or lack of evidence. Whatever verdict is warranted by the evidence under the instructions [288] of the Court, you should return as you have sworn to do.

8.

(a) You are instructed that a person charged with the commission of a crime shall at her own request, but not otherwise, be deemed a competent witness in her own behalf—the credit to be given to her testimony being left solely to the jury under the instructions of the court.

You are instructed that in this case the credit to be given to the testimony of the defendant, Vernestine Wright, who has voluntarily offered herself as a witness and testified in her own behalf, is left solely to you and you should give it the same fair and candid consideration as you do the testimony of other witnesses in the case, but you have a right to take into consideration the interest of the defendant, Vernestine Wright, in the result of the trial as affecting her credibility.

(b) You are instructed that in the trial of a criminal case, the person accused is a competent witness in his own behalf, at his own request, but not otherwise, the credit to be given to his testimony being left solely to the jury under the instructions of the court. If the defendant does not choose to appear as a witness in his own behalf, the laws of Alaska provide that his waiver to so testify shall not create any presumption against him, and you will, therefore, in this case not permit the [289] failure of the defendant, Raymond Wright, to testify to create any presumption in your minds against his innocence.

9.

In determining the credit you will give to a witness and the weight and value you will attach to his testimony you should take into account the conduct and appearance of the witness upon the stand; the interest he has, if any, in the result of the trial; the motive he has in testifying, if any is shown; his relation to or feeling for or against any of the parties to the cause; the probability or improba-

bility of his statements; the opportunity he had to observe and to be informed and the inclination he evinced to speak the truth or otherwise as to matters within his knowledge. It is your duty to give to the testimony of each and every witness appearing before you such credit as you consider the same justly entitled to receive.

You are further instructed that in your consideration of the evidence in this case, you should analyze it in the light of the knowledge which your experience in life has given you, and you should draw from the evidence all logical and natural deductions and be governed accordingly.

10.

You are instructed that the laws of the Territory [290] of Alaska lay down the following general rules for your guidance as to the value of evidence, to wit:

1. That you are not bound to find in conformity with the declarations of any number of witnesses which do not produce conviction in your minds against a less number, or against a presumption or other evidence satisfying to your minds.

2. That a witness wilfully false in one part of his testimony may be distrusted in others.

3. That evidence is to be estimated not only by its own intrinsic weight, but also accordingly to the evidence which it is in the power of one side to produce and of the other to contradict; and, therefore,

4. That if the weaker and less satisfactory evidence is offered when it appears that stronger and more satisfactory evidence was within the power of the party, the evidence offered should be viewed with distrust.

5. That oral admissions of a party should be viewed with caution.

11.

You are instructed as follows:

1. That you should not consider any evidence sought to be introduced, but excluded by the court, nor should you consider any evidence that has been stricken from the record by the court; [291]

2. That it is manifestly impossible for the court to cover the law of this case in a few instructions and that, therefore, you should consider all the instructions together and not disconnectedly;

3. That wherever in these instructions the masculine is used, it shall be deemed to include the feminine, unless the context shows it to be inapplicable.

4. That you should endeavor to agree upon a verdict and should calmly reason with your fellows with the view of arriving at a verdict. You should not refuse to agree from pride of opinion, nor should you surrender any conscientious views founded on the evidence or lack of evidence.

5. That wherever in these instructions the singular is used, it shall be deemed to include the

plural, unless the context shows it to be inapplicable.

12.

You are instructed that there are two general classes of evidence, direct and circumstantial. Evidence as to the existence of the main fact in issue is direct evidence, while circumstantial evidence relates to the existence of facts which raise a logical inference as to the existence of the main fact in issue.

It is not necessary to prove the defendants' guilt by the testimony of eye witnesses who have seen the [292] offense committed, but such guilt may be established by facts and circumstances from which it may be reasonably and satisfactorily inferred, provided such facts and circumstances establish guilt beyond a reasonable doubt.

You are instructed that circumstantial evidence is legal and competent evidence, and, if it be of such a character as to exclude every other reasonable hypothesis than that of the guilt of the defendant, then it is sufficient to authorize a conviction; in other words, such evidence is sufficient to warrant a conviction when it convinces the minds of the jury of the guilt of the accused beyond a reasonable doubt.

Circumstantial evidence is to be regarded by the jury in all cases where it is offered. Sometimes it is quite as convincing in its power as the direct and positive evidence of eye witnesses, and when it is strong and satisfactory the jury should so consider it, neither enlarging or belittling its force,

but the circumstances when taken together should be of a conclusive nature and tendency, leading on the whole to a satisfactory conclusion and producing in effect a reasonable and moral certainty that the accused committed the crime charged. And it is an invariable rule of law that such facts and circumstances must be shown as are consistent with the guilt of the person charged and as cannot on any reasonable theory, be true and [293] the person charged be innocent.

13.

Herewith I hand you a form of verdict which is more or less self-explanatory. In the first blank you should insert the words "guilty" or "not guilty" according to your finding as to the defendant Raymond Wright. In the second blank, you should insert the words "guilty" or "not guilty" according to your finding as to the defendant, Verneestine Wright.

You should elect a foreman and by him or her sign the verdict upon which you unanimously agree, and return it into the court as your verdict.

Herewith I hand you these instructions for your guidance, together with the above-mentioned form of verdict, the indictment in this case, and the exhibits that have been introduced in evidence. Return all of these into court with your verdict.

Dated at Fairbanks, Alaska, this 10th day of November, 1950.

HARRY E. PRATT,
District Judge.

(Following the reading of the instructions to the jury by the court, the following proceedings were had.)

The Court: Come forward at this time [294] if you wish.

(The following proceedings were had out of the presence and hearing of the jury.)

Mr. Hurley: The—— (Interrupted.)

The Court: I would suggest that you first mention the instruction just so I can get that before you start talking.

Mr. Hurley: I object—— (Interrupted.)

The Court: Which number?

Mr. Hurley: (Continuing): ——to instruction number 1 (a) for the reason that the instruction is not sufficiently clear and does not impress upon the jury the fact that the jury cannot convict the defendant upon evidence other than the evidence introduced which had to do with the 4th day of August, 1950; and for the further reason that there is no instruction included in all of the instructions to—in regard to the testimony that was admitted in evidence in regard to crimes testified to by witnesses which they testified happened prior to the 4th day of August, 1950. We feel that this instruction is not sufficient and the jury may be misled by reason of the fact of the admission of evidence in regard to the commission of other crimes prior to the time charged in the indictment. It is our contention that it should be made clear to the jury that if they

do not believe that on this date that the defendants wilfully and [295] knowingly and feloniously had in their possession marijuana, they should vote for a verdict of not guilty.

Now, as to instruction number 1, paragraph 2, I object to the instruction that during the year 1950 neither of the defendants were authorized to have possession or control of a narcotic drug, marijuana, because there is no evidence in regard to that.

I object to instruction number 3 in regard to the joint possession and control of a narcotic drug, to wit: marijuana, for the reason that it is not warranted by the evidence and there is no evidence that Mr. Wright was present or that he had any knowledge regarding said possession of said drug other than except the testimony of witnesses who were testifying about another offense.

We object to instruction number 4, paragraph (b), for the reason that it is not clear and merely refers to the crime charged in the indictment as set forth in instruction number 1 (a), but not brought to the attention of the jury that they have no right to convict on the testimony of the witnesses who have testified in regard to prior and previous crimes.

I object to that part of instruction number 6 in the next to the last line of said instruction under paragraph (b) in which it says that "upon an impartial comparison and consideration of all evidence and prevents the jury from [296] being able to say candidly and truthfully that they have an abiding conviction of the defendants' guilt," be-

cause it leaves out that the law requires that they must have an abiding conviction to a moral certainty.

I object to instruction number 12 in regard to circumstantial evidence for the reason there is no circumstantial evidence that has been introduced in this case that has been restricted by the instructions of the court.

The evidence shows that certain officers went out and exercised a search warrant and found what they claim to be marijuana in a public place and owned by the defendants. There is no attempt in instruction number 12 to limit what might be considered as circumstantial evidence or to give the defendants the benefit of the law and therefore the instruction is not applicable to this case.

The Court: Objections will be overruled.

(The following proceedings were had in the presence and hearing of the jury.)

The Court: The jury may retire in the custody of the bailiffs.

(Annella Davis, Martin Urie and William Sexton were duly sworn as bailiffs and at 2:35 p.m., the jury, in charge of its sworn bailiffs, retired to enter upon its deliberation.) [297]

Reporter's Certificate

United States of America,
Territory of Alaska—ss.

I, Charles Belida, Official Court Stenographer for the above-named court, do hereby certify,

That the foregoing pages numbered 1 through 297, inclusive, constitute a full, true, complete and accurate transcript of my shorthand notes.

That my shorthand notes were taken at the trial of the above-named cause upon the 7th, 8th, 9th and 10th days of November, 1950, in open court and that I reported in shorthand all of the oral proceedings had at the time of trial.

Dated at Fairbanks, Alaska, this 3rd day of February, 1951.

/s/ CHARLES BELIDA,
Official Court Stenographer.

Sworn and subscribed to before me this 3rd day of February, 1951.

[Seal] /s/ JOHN B. HALL,
Clerk of Court.

[Endorsed]: Filed February 3, 1951.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, John B. Hall, Clerk of the above-entitled Court, do hereby certify that the following list comprises all proceedings as per Praeceptum for Transcript of Record by Appellants in the above-entitled cause, viz.:

	Page
1. Indictment	1
2. Motion to Dismiss Indictment.....	3
3. Order Overruling Motion to Dismiss Indictment	4
4. Plea and Setting Time for Trial.....	5
5. Verdict	6
6. Judgment and Commitment	7
7. Motion for Change of Venue and Affidavits in Support of Motion.....	9
8. Minute Order Overruling Motion for Change of Venue	12
9. Notice of Appeal.....	13
10. Order for Release	14
11. Order Extending Time to File, Record and Docket Transcript	15
12. Praeceptum for Transcript of Record.....	16
13. Transcript of Testimony and Trial (Pgs. 1 to 297)

14. Brown Manilla Envelope containing all Plaintiff's Exhibits.

Witness my hand and the seal of the above-entitled Court, this 23rd day of February, 1951.

[Seal] /s/ JOHN B. HALL,

Clerk of the District Court, Fourth Judicial Division, Territory of Alaska.

[Endorsed]: No. 12869. United States Court of Appeals for the Ninth Circuit. Raymond Wright, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the District Court for the Territory of Alaska, Fourth Division.

Filed February 26, 1951.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
For the Ninth Circuit
No. 12869

RAYMOND WRIGHT, et al.,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

APPELLANT'S STATEMENT OF POINTS
AND DESIGNATION OF RECORD

Comes now the Appellant above named by his attorneys, Julien A. Hurley and Quincy W. Benton, and respectfully requests and designates the entire record including all the testimony be printed for submission to the Court in the above-entitled criminal action.

The points to be relied upon by Appellant are as follows:

1. Errors of the Court in admitting evidence offered by Appellee which was objected to by Appellant and admitted over the objections of Appellant and which evidence was incompetent, irrelevant and immaterial and which was prejudicial to the rights of Appellant.

2. Testimony of Appellant which was offered in evidence and which was objected to by attorney for Appellee and which was excluded by the Court which under the law was admissible. Rulings of the Court on such objections refers not only to direct evidence but to cross-examination of Appellee's witnesses.

3. Error of the Court in admitting evidence of crimes and misdemeanors in regard to which witnesses were allowed to testify which were not included in the crime charged in the Indictment and which were inadmissible and which resulted in the conviction of the Appellant on crimes not charged in the Indictment.

4. Errors of the Court in instructing of the jury as to the law of the case and which instructions were objected and excepted to by the Appellant, the reasons being stated why they were erroneous by the attorneys for Appellant.

5. Error of the Court in denying Appellant's motion for a change of venue.

6. Error of the Court in denying Appellant's motion for an instructed verdict and in reopening the case over the objection of Appellant in order for Appellee to introduce evidence of crimes not charged in the Indictment which were inadmissible under the correct rules of law.

That the only copy of the transcript and the record has been sent to San Francisco for printing and the points relied upon will be more fully defined and set forth in Appellant's Brief.

/s/ JULIEN A. HURLEY,

/s/ QUINCY BENTON,

Attorneys for Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed March 5, 1951.

